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ABSTRACT

This committee hearing reports a bill, H.R. 4417, which is a measure designed to improve the federal government's ability to collect scientific and technical data and to give these functions, which are currently being performed by the National Technical Information Service (NTIS), to a new governmentally owned corporation. The bill provides for the establishment in the Department of Commerce of a Technology Administration, which would include the National Bureau of Standards, the National Technical Information Corporation Service, and a policy analysis office to be known as the Office of Technology Policy. It is noted that, while there is agreement generally on the kinds of new powers the agency would need to deliver its products and services on a more cost-effective basis, there is disagreement over the need, or appropriateness, of setting up a government corporation to carry out these duties. In addition to the text of H.R. 4417, this report includes testimony from: (1) Barry Beringer, Associate Under Secretary for Economic Affairs, Department of Commerce; (2) George Brown, Jr., a Representative in Congress from California; (3) Joseph Clark, Deputy Director, National Technical Information Service; (4) Eric Leber, executive officer, Council of Scientific Presidents; (5) Harold Seidman, member, Standing Panel on Executive Organization and Management, National Academy of Public Administration; and (6) Doug Walgren, a Representative in Congress from Pennsylvania, who presents a case against the privatization of the agency. Also included are materials submitted for the record by the American Library Association, the Association of Research Libraries, and the National Academy of Public Administration. (CGD)

NATIONAL TECHNICAL INFORMATION SERVICE

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ED307888

HEARING

BEFORE THE

SUBCOMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND COMPETITIVENESS

OF THE

COMMITTEE ON ENERGY AND COMMERCE HOUSE OF REPRESENTATIVES

ONE HUNDREDTH CONGRESS

SECOND SESSION

ON

H.R. 4417

A BILL TO AUTHORIZE APPROPRIATIONS TO THE SECRETARY OF COMMERCE FOR THE PROGRAMS OF THE NATIONAL BUREAU OF STANDARDS FOR FISCAL YEAR 1989, AND FOR OTHER PURPOSES

JUNE 30, 1988

Serial No. 100-170

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NATIONAL TECHNICAL INFORMATION SERVICE

THURSDAY, JUNE 30, 1988

HOUSE OF REPRESENTATIVES, COMMITTEE ON ENERGY AND COMMERCE, SUBCOMMITTEE ON COMMERCE, CONSUMER PROTECTION AND COMPETITIVENESS,

Washington, DC.

The subcommittee met, pursuant to notice, at 12:25 p.m., in room 2222, Rayburn House Office Building, Hon. James J. Florio (chairman) presiding.

Mr. FLORIO. The subcommittee will kindly come to order.

I would like to welcome all in attendance to our hearing on the bill H.R. 4417, a measure designed to improve our Government's ability to collect scientific and technical data and to give these functions to a new governmentally-owned corporation.

These data-gathering functions are now being performed by the National Technical Information Service, NTIS, in the Department of Commerce. The organic act for NTIS came out of this committee in 1950, and as a result we and the Science Committee share responsibilities for changes in the Agency's duties. The Science Committee filed its report on H.R. 4417 on June 3 of this year; our committee, to which the legislation was sequentially referred, has until July 8 to act.

While there is agreement generally on the kinds of new powers this Agency needs to deliver its products and services in a more cost-effective basis, there is disagreement over the need, or appropriateness of setting up a government corporation to carry out these duties. We look forward to hearing our witnesses' views on this proposal.

We appreciate the participation of all our witnesses today, particularly our first panel, which is comprised of two of our most distinguished Members of Congress who have developed expertise in this particular area.

[Testimony resumes on p. 33.]

[Text of H.R. 4417 follows:]

IB

Union Calendar No. 465

100TH CONGRESS
2D SESSION

H. R. 4417

[Report No. 100–673, Parts I and II]

To authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal year 1989, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 20, 1988

Mr. WALGREN introduced the following bill; which was referred to the Committee on Science, Space, and Technology

JUNE 3, 1988

Reported with amendment and referred to the Committee on Energy and Commerce for a period ending not later than June 8, 1988, for consideration of such provisions of title II of the amendment as fall within the jurisdiction of that committee pursuant to clause 1(h), rule X

[Strike out all after the enacting clause and insert the part printed in italic]

JUNE 8, 1988

Referral to the Committee on Energy and Commerce extended for a period ending not later than June 24, 1988

JUNE 22, 1988

Referral to the Committee on Energy and Commerce extended for a period ending not later than July 8, 1988

JULY 8, 1988

Reported with amendments from the Committee on Energy and Commerce, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Omit the part in Italic in Bold brackets and insert the part printed in boldface roman]

[For text of introduced bill, see copy of bill as introduced on April 20, 1988]

A BILL

To authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal year 1989, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—NATIONAL BUREAU OF STANDARDS AUTHORIZATION

SEC. 101. SHORT TITLE.

This title may be cited as the "National Bureau of Standards Authorization Act for Fiscal Year 1989".

SEC. 102. AUTHORIZATIONS FOR PROGRAM ACTIVITIES.

(a) AUTHORIZATIONS.—There are authorized to be appropriated to the Secretary of Commerce (hereafter in this title referred to as the "Secretary"), for fiscal year 1989, to carry out activities performed by the National Bureau of Standards, the sums set forth in the following line items:

(1) Measurement Research and Standards, $45,400,000.

(2) Materials Science and Engineering, $25,400,000.

(3) Engineering Measurements and Standards, $55,000,000.

(4) Computer Science and Technology, $11,400,000.

(5) Research Support Activities, $21,800,000.

(6) Cold Neutron Source Facility, $6,500,000 (for a total authorization of $19,500,000).

(7) Technology Services, $3,000,000.

(b) LIMITATIONS.—Notwithstanding any other provision of this or any other Act—

(1) of the total of the amounts authorized under subsection (a), $2,000,000 is authorized only for steel technology;

(2) of the total amount authorized under paragraph (3) of subsection (a)—

(A) $4,000,000 is authorized only for the Center for Building Technology, and

(B) $6,000,000 is authorized only for the Center for Fire Research,

and the two Centers shall not be merged;

(3) of the total amount authorized under paragraph (5) of subsection (a), $7,700,000 is authorized only for the technical competence fund; and

(4) the amount authorized under paragraph (7) of subsection (a) is in addition to amounts authorized under any other Act.

(c) TRANSFERS.—(1) Funds may be transferred among the line items listed in subsection (a), so long as the net funds transferred to or from any line item do not exceed 10 percent

of the amount authorized for that line item in such subsection and the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate are notified in advance of any such transfer.

(2) In addition, the Secretary may propose transfers to or from any line item exceeding 10 percent of the amount authorized for the line item in subsection (a); but a full and complete explanation of any such proposed transfer and the reason therefore must be transmitted in writing to the Speaker of the House of Representatives, the President of the Senate, and the appropriate authorizing committees of the House of Representatives and the Senate, and the proposed transfer may be made only when 30 calendar days have passed after the transmission of such written explanation.

SEC. 103. UNDER SECRETARY FOR TECHNOLOGY.

In addition to any sums otherwise authorized by this title, there is authorized to be appropriated to the Secretary for fiscal year 1989 the sum of $1,000,000 for the activities of the Office of the Under Secretary of Commerce for Technology, and $2,000,000 for the activities of the Office of Technology Policy.

SEC. 104. JAPANESE TECHNICAL LITERATURE.

In addition to any sums otherwise authorized by this title, there is authorized to be appropriated to the Secretary

for fiscal year 1989 the sum of $1,000,000 to carry out the purposes of the Japanese Technical Literature Act of 1986.

SEC. 105. SALARY ADJUSTMENTS.

In addition to any sums otherwise authorized by this title, there are authorized to be appropriated to the Secretary for fiscal year 1989 such additional sums as may be necessary to make any adjustments in salary, pay, retirement, and other employee benefits which may be provided for by law.

SEC. 106. AVAILABILITY OF APPROPRIATIONS.

Appropriations made under the authority provided in this title shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making such appropriations.

SEC. 107. RESEARCH INFORMATION CENTER.

The Research Information Center of the National Bureau of Standards shall be maintained as a governmental activity.

SEC. 108. EVALUATED ENGINEERING DATA STUDY.

Within 6 months after the date of the enactment of this Act, the Director of the National Bureau of Standards shall conduct a study of needs within the private and public sectors for evaluated engineering data, and shall submit a report to the Congress making recommendations concerning the appropriate roles of the National Bureau of Standards, other government agencies, professional societies, and trade associa-

tions in the collection, evaluation, and dissemination of such data. Such recommendations shall include plans for the dissemination of the results of the study through data bases, and plans for incorporating high quality results from other countries.

SEC. 109. TECHNOLOGY TRANSFER.

Within 6 months after the date of the enactment of this Act, the Director of the National Bureau of Standards shall report to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on domestic technology transfer accomplishments, trends, and plans since 1986 at the National Bureau of Standards. Such report shall describe with examples the types of technology transfer undertaken by the National Bureau of Standards, the amount of funds devoted to these efforts, and patent and licensing activities related to the National Bureau of Standards research results. The report shall describe the division of technology transfer activities between the Gaithersburg, Maryland, and Boulder, Colorado, sites of the National Bureau of Standards. The merits of establishing a technology transfer office in Boulder or of giving the Boulder laboratories increased technology transfer responsibilities shall also be considered.

SEC. 110. ANNUAL BUDGET SUBMISSION.

The National Bureau of Standards shall annually submit to the Congress, at the time of the release of the President's budget, a three-year budget estimate for the Bureau, including funding estimates for each major account and new initiative.

TITLE II—TECHNOLOGY ADMINISTRATION AND NATIONAL TECHNICAL INFORMATION [*CORPORATION*] SERVICE

Subtitle A—Technology Administration

SEC. 201. TECHNOLOGY ADMINISTRATION.

(a) ESTABLISHMENT.—Section 5(a) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704(a)) is amended to read as follows:

"(a) ESTABLISHMENT.—There is established in the Department of Commerce a Technology Administration, which shall operate in accordance with the provisions, findings, and purposes of this Act. The Technology Administration shall include—

"(1) the National Bureau of Standards;

"(2) the National Technical Information [*Corporation*] **Service**; *and*

"(3) a policy analysis office, which shall be known as the Office of Technology Policy.".

(b) UNDER SECRETARY AND ASSISTANT SECRETARY.—Section 5(b) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704(b)) is amended to read as follows:

"(b) UNDER SECRETARY AND ASSISTANT SECRETARY.—The President shall appoint, by and with the advice and consent of the Senate—

"(1) an Under Secretary of Commerce for Technology, who shall be compensated at the rate provided for level III of the Executive Schedule in section 5314 of title 5, United States Code; and

"(2) an Assistant Secretary of Commerce for Technology Policy, who shall serve as policy advisor to the Under Secretary.".

(c) DUTIES.—Section 5(c) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704(c)) is amended—

(1) by redesignating paragraphs (1) through (10) as paragraphs (5) through (14), respectively;

(2) by striking "Assistant Secretary, on a continuing basis, shall—" and inserting in lieu thereof "Under Secretary, as appropriate, shall—

"(1) manage the Technology Administration and supervise its agencies, programs, and activities;

"(2) conduct technology policy analyses to improve United States industrial productivity, technology, and innovation, and cooperate with United States industry in the improvement of its productivity, technology, and ability to compete successfully in world markets;

"(3) carry out any functions formerly assigned to the Office of Productivity, Technology, and Innovation;

"(4) assist in the implementation of the Metric Conversion Act of 1975;"; and

(3) in paragraph (10), as redesignated by paragraph (1) of this subsection, by striking "Assistant Secretary" and inserting in lieu thereof "Under Secretary".

(d) CONFORMING AMENDMENTS.—(1) Section 4 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703) is amended by adding at the end the following new paragraph:

"(13) 'Under Secretary' means the Under Secretary of Commerce for Technology appointed under section 5(b)(1).".

[(2) Section 5(d)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704(d)(1)) is amended by striking ", through the National Technical In-

formation Service" and all that follows through "appropriate, maintain" and inserting in lieu thereof "maintain within the National Technical Information Corporation".]

[*(3)*] **(2)** *Section 10(g)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(g)(1)) is amended by inserting "through the Under Secretary, and" after "Secretary,".*

[*(4) Any reference in law to the National Technical Information Service shall be deemed to be to the National Technical Information Corporation.*]

[*(5)*] **(3)** *Section 5314 of title 5, United States Code, is amended by adding at the end the following item:*

"Under Secretary of Commerce for Technology.".

Subtitle B—National Technical Information [*Corporation*] Service

SEC. 211. SHORT TITLE.

This subtitle may be cited as the "National Technical Information Act of 1988".

[***SEC. 212. ESTABLISHMENT OF CORPORATION.***

[*(a) IN GENERAL.—The Stevenson-Wydler Technology Innovation Act of 1980 is amended by redesignating sections 18 and 19 as sections 19 and 20, respectively, and by inserting after section 17 the following new section:*

"SEC. 18. NATIONAL TECHNICAL INFORMATION CORPORATION.

"(a) ESTABLISHMENT OF CORPORATION.—There is hereby established a body corporate under the direction and supervision of the Secretary to be known as the National Technical Information Corporation (hereinafter referred to as the 'Corporation'). The Corporation shall be a wholly owned Government corporation subject to the Government Corporation Control Act (31 U.S.C. 9101 et seq.), except as otherwise provided in this section.

"(b) SUCCESSION.—The Corporation shall have perpetual succession unless dissolved by an Act of Congress.

"(c) PRINCIPAL OFFICE.—The Corporation shall have its principal office in the Washington, D.C., metropolitan statistical area and shall be deemed, for purposes of venue in civil actions, to be a resident of the District of Columbia. The Corporation may establish offices in such other place or places as it may deem necessary or appropriate in the conduct of its business.

"(d) GENERAL POWERS.—The Corporation shall have the following powers:

"(1) to adopt, alter, and use a corporate seal;

"(2) to adopt, amend, and repeal bylaws, rules, and regulations governing the conduct of its business and the performance of powers and duties granted to or imposed upon it by law;

"(3) to sue and be sued in its corporate name (and liability for judgments against the Corporation shall be limited solely to the assets of the Corporation);

"(4) to have the priority of the United States with respect to the payment of debts out of bankrupt, insolvent, or decedent's estates;

"(5) to appoint and fix the compensation, in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, governing classification and rates of pay, of such officers and employees as may be necessary for the conduct of its business, define their authority and duties, and delegate to them such of the powers vested in the Corporation as the Administrator may decide without regard to any administratively imposed limits on the number or grade of personnel;

"(6) as the Corporation considers necessary for the efficient conduct of its business—

"(A) to acquire by purchase, lease, or donation such real or personal property, including capital equipment and inventories, or any interest therein, using receipts for work or services to be

performed by the Corporation, or from other sources; and

"(B) sell, lease, or otherwise dispose of such real and personal property;

"(7) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes herein authorized;

"(8) to enter into and perform such contracts, leases, cooperative agreements, joint ventures, and other transactions as may be necessary in the conduct of its business and on such terms as it may deem appropriate, with any agency or instrumentality of the United States, or with any foreign countries, or with any State, territory, or possession, or with any political subdivision thereof, or with any person, firm, association, or corporation; except that no contract for the purpose of obtaining funds or other financial instruments or assistance shall be entered into by or on behalf of the Corporation unless expressly authorized in this Act;

"(9) to retain and utilize its revenues and receipts for any of the purposes of the Corporation;

"(10) to levy reasonable fees for its products and services so as to enable the Corporation to operate on a self-sustaining nonprofit basis without cost to the

Treasury (but such fees may be waived for products or services furnished to any agency or instrumentality of the United States, or for publications which are distributed pursuant to reciprocal arrangements for the exchange of information, or which are otherwise issued primarily for the general benefit of the public);

["(11) to borrow money only from the Federal Financing Bank, in accordance with the provisions of the Federal Financing Bank Act of 1973 (12 U.S.C. 2281 et seq.), and to issue such obligations as it determines to be necessary to carry out the purposes of this section (but the amount of such obligations outstanding at any one time shall not exceed $10,000,000 for purposes related to the business of the Corporation and $10,000,000 for modernization of equipment);

["(12) to determine the character of and the necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid, subject to the provisions of this Act and other provisions of law specifically applicable to Government corporations;

["(13) to execute, in accordance with its bylaws, rules, and regulations, all instruments necessary and appropriate in the exercise of any of its powers;

"(14) to settle and adjust claims held by the Corporation against other persons or parties and claims by other persons or parties against the Corporation, other than claims cognizable under the tort claims procedures in chapter 171 of title 28, United States Code (with respect to which the Corporation will be represented by the Attorney General);

"(15) to enter into contracts for the performance of part or all of the functions previously performed by the Promotion Division of the National Technical Information Service; and

"(16) to take such actions as may be necessary or appropriate to carry out the powers herein or hereafter specifically conferred upon the Corporation.

"(c) MANAGEMENT.—(1)(A) The management of the Corporation shall be vested in an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, for a term of six years. Any Administrator appointed to fill a vacancy in that position prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. The Administrator shall be compensated at the rate provided in level IV of the Executive Schedule (5 U.S.C. 5316).

"(B) The Administrator shall report to the Under Secretary.

[*"(2) The Administrator shall designate an officer of the Corporation to act as Administrator in the event of the Administrator's absence or incapacity.*

[*"(3) The Director of the National Technical Information Service shall serve as Acting Administrator until the Administrator takes office.*

[*"(f) LEGAL ACTIONS INVOLVING THE CORPORATION.—(1)(A) If the Corporation engages in or adheres to any action, practice, or policy inconsistent with the provisions of this Act, or if the Corporation or any other person violates any provision of this Act or obstructs or interferes with any activity authorized by this Act, or refuses, fails, or neglects to discharge its duties under this Act, or threatens any such violation, obstruction, interference, refusal, failure, or neglect, the District Court of the United States for any district in which the Corporation or such other person resides or may be found shall have jurisdiction, except as otherwise provided by law, upon petition of the Attorney General, or upon petition by the Comptroller General of the United States, to grant such relief as may be necessary or appropriate to prevent or terminate such conduct or threat.*

[*"(B) Nothing contained in this section shall be construed as relieving any person of any punishment, liability, or sanction which may be imposed otherwise than under this Act.*

"(C) Nothing in this section shall be deemed or construed to prevent the enforcement of the other provisions of this Act by appropriate officers of the United States.

"(2) District courts of the United States constituted under chapter 5 of title 28, United States Code, and courts constituted under section 22 of the Organic Act of Guam (48 U.S.C. 1424), section 21 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1611), section 1 of title 3 of the Canal Zone Code, and the first section of the Act entitled "An Act to create the District Court for the Northern Mariana Islands, implementing article IV of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America", approved November 8, 1977 (91 Stat. 1265), shall have original jurisdiction of all civil actions against the Corporation; except that (A) the tort claims procedures in chapter 171 of title 28, United States Code, shall apply to the Corporation as if it were a Federal agency and any judgment or compromised claim resulting from any action thereunder shall be paid by the Corporation from its funds, and (B) the Corporation shall be liable for contract claims only if such claims are based upon a written contract to which the Corporation is an executing party.

"(g) ADVISORY BOARD.—(1) There is established the Advisory Board of the National Technical Information Cor-

poration which shall be composed of a chairman and four members appointed by the Secretary. The members shall be appointed for terms of five years each; except that, of the members first appointed under this subsection, one shall be appointed for a term of one year, one for a term of two years, one for a term of three years, and one for a term of four years, as designated by the Secretary at the time of such appointment. Any person appointed to fill a vacancy occurring before the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term. Each member of the Advisory Board shall be a citizen of the United States. Upon the expiration of his or her term of office a member shall continue to serve until the member's successor is appointed.

"(2) In appointing members of the Advisory Board the Secretary shall solicit recommendations from the major users and beneficiaries of the Corporation's services and select individuals experienced in providing or utilizing technical information.

"(3) The Advisory Board shall review the general policies and operations of the Corporation, including policies in connection with fees and charges for its services, and advise the Secretary and the Administrator with respect thereto.

[*"(4) The Advisory Board shall meet at the call of the Secretary, but not less often than once each six months.*

[*"(5) All official meetings of the Advisory Board shall be preceded by reasonable public notice and shall be open to public observation; except that the chairman may close a meeting to the public if it is probable that the meeting will include a discussion of—*

[*"(A) information likely to impede full, free, and fair competition for contracts relating to goods or services purchased by or provided by the Corporation, or*

[*"(B) information or matters exempted from public disclosure pursuant to paragraph (1), (2), (4), (5), or (6) of section 552b(c) of title 5, United States Code.*

[*"(6) Each member of the Advisory Board shall receive per diem compensation from funds available to the Corporation, at a rate not in excess of the per diem equivalent to the maximum scheduled rate of the General Schedule, when actually engaged in the performance of duties vested in the Advisory Board. Each member of the Advisory Board shall be reimbursed, in accordance with section 5703 of title 5, United States Code (but from funds available to the Corporation), for per diem, travel, subsistence, and other necessary expenses incurred by the member in the performance of such duties.*

"(h) ANNUAL AUDIT.—The Corporation's financial statements shall be audited annually in accordance with section 9105 of title 31, United States Code.

"(i) ANNUAL REPORT.—Not later than 90 days following the close of each fiscal year, the Secretary shall transmit to the Congress a detailed report of the Corporation's operations during the previous year which shall include a summary of the Corporation's operating and financial performance, the report and recommendations of the auditor under subsection (h), and a summary of the Corporation's planned capital improvements.

"(j) CONTRIBUTIONS TO RETIREMENT AND DISABILITY AND EMPLOYEES' COMPENSATION FUNDS.—In addition to contributions required by sections 8334 and 8423 of title 5, United States Code, the Corporation shall contribute to the Civil Service Retirement and Disability Fund such additional amounts as the Office of Personnel Management shall determine necessary to fund the full cost of benefits under the civil service retirement system for employees of the Corporation and their survivors. The Corporation shall also contribute to the employees' compensation fund, on the basis of annual billings as determined by the Secretary of Labor, for the benefit payments made from such fund on account of the Corporation's employees. The annual billings shall also include a statement of the fair portion of the cost of

administration of the respective funds, which shall be paid by the Corporation into the Treasury as miscellaneous receipts.

"(k) FUNCTIONS OF THE NATIONAL TECHNICAL INFORMATION CORPORATION.—The Corporation is authorized and directed—

"(1) to establish and maintain a permanent repository and central clearinghouse for the collection and dissemination of nonclassified scientific, technical, and engineering information;

"(2) to search for, collect, categorize, coordinate, integrate, record, index, and catalog such information from whatever sources, foreign and domestic, that may be available, and to cooperate and coordinate its operations with other government information programs;

"(3) to make such information available in a timely manner to industry and business, to State and local governments, to other agencies of the Federal Government, and to the general public, through the preparation of abstracts, digests, translations, bibliographies, indexes, and microfilm and other reproduction for distribution either directly or by utilization of business, trade, technical, and scientific publications and services;

"(4) to make its bibliographic information products (including but not limited to catalogs, indexes, ab-

structs, and newsletters) available in a timely manner to depository libraries as a part of the Depository Library Program of the Government Printing Office;

"(5) to effect, within the limits of its authority as now or hereafter defined by law, and with the consent of competent authority, the removal of restrictions on the dissemination of scientific and technical data where consideration of national security permit the release of such data for the benefit of industry and business;

"(6) to acquire and license Government-owned patents with significant commercial potential;

"(7) to provide accounting and production services to Federal agencies and technical assistance for the Agency for International Development's efforts to transfer United States scientific and technical information to developing countries;

"(8) to perform the functions heretofore exercised by the National Technical Information Service under section 106(d);

"(9) to perform the functions delegated by the Secretary to the National Technical Information Service pursuant to section 2(d) of the Japanese Technical Literature Act of 1986 (P.L. 99-382);

"(10) to serve as a clearinghouse, in conjunction with the private sector as appropriate, for information regarding the planned translation into English of unclassified foreign scientific and technical information;

"(11) to implement new methods or media for the dissemination of scientific and technical information;

"(12) to perform all other functions heretofore exercised by the National Technical Information Service; and

"(13) to exercise any other function necessary and proper to carry out this section, to the extent that authority to exercise such function is expressly or impliedly provided by this section.

"(l) SECURITY CLASSIFICATION.—The Corporation shall respect and preserve the security classification of any scientific or technical information, data, patents, inventions, or discoveries in, or coming into, the possession or control of the Corporation, the classified status of which the President or his designee or designees certify as being essential in the interest of national defense, and nothing in this title shall be construed as modifying or limiting any other statute relating to the classification of information for reasons of national defense or security.

[*"(m) INFRINGEMENT ON NAME.—(1) No person or other government entity may use the words 'National Technical Information Corporation' or a combination of these words in a manner which is likely to mislead or deceive.*

[*"(2) A violation of this subsection may be enjoined at the suit of the Corporation.".*

[*(b) CONFORMING AMENDMENTS.—(1) Section 9101 of title 31, United States Code (relating to the definition of "wholly owned Government Corporation"), is amended by redesignating subparagraphs (G) through (M) as subparagraphs (H) through (N), respectively, and by inserting after subparagraph (F) the following new subparagraph:*

[*"(G) the National Technical Information Corporation.".*

[*(2) The Act of September 9, 1950 (15 U.S.C. 1151-1157) is repealed.*]

SEC. 212. NATIONAL TECHNICAL INFORMATION SERVICE.

(a) ADDITIONAL FUNCTIONS.—Section 2 of the Act entitled "An Act to provide for the dissemination of technology, scientific, and engineering information to American business and industry, and for other purposes", enacted September 9, 1950 (15 U.S.C. 1152), is amended—

(1) in paragraph (c), by striking the period and inserting in lieu thereof a semicolon; and

(2) by adding at the end the following new paragraphs:

"(d) To establish and maintain a permanent repository of nonclassified scientific, technical, and engineering information;

"(e) To cooperate and coordinate its operations with other government information programs;

"(f) To make its bibliographic information products (including but not limited to catalogs, indexes, abstracts, and newsletters) available in a timely manner to depository libraries as a part of the Depository Library Program of the Government Printing Office;

"(g) Upon request and as appropriate, to provide technical assistance and services to Federal agencies, consistent with the policy of this Act that all services and functions be self-sustaining or self-liquidating to the fullest extent feasible;

"(h) In conjunction with the private sector as appropriate, to collect, translate into English, and

disseminate unclassified foreign scientific, technical, and engineering information; and

"(i) To implement new methods or media for the dissemination of scientific, technical, and engineering information.".

(b) LIMITED CONTRACT AUTHORITY.—Section 2 of the Act entitled "An Act to provide for the dissemination of technology, scientific, and engineering information to American business and industry, and for other purposes", enacted September 9, 1950 (15 U.S.C. 1152), as amended by subsection (a), is further amended by adding at the end the following:

"The functions and services authorized by this section shall be carried out by the Secretary, except that the Secretary may from time to time enter into such contracts and cooperative agreements, under reasonable terms and conditions and in accordance with all relevant provisions of Federal law applicable to such contracts and agreements, as the Secretary deems necessary to assist in carrying out such functions economically and efficiently.".

(c) EQUIPMENT AND INVENTORY COST.—Section 3 of the Act entitled "An Act to provide for

the dissemination of technology, scientific, and engineering information to American business and industry, and for other purposes", enacted September 9, 1950 (15 U.S.C. 1153), is amended by adding at the end the following new sentence: "Additionally, the Secretary may use moneys received under this Act or otherwise by the National Technical Information Service for the cost of maintaining, acquiring, replacing, or repairing necessary equipment and inventory, to the extent provided in the appropriations process.".

(d) NOTIFICATION OF CONGRESS.—The Act entitled "An Act to provide for the dissemination of technology, scientific, and engineering information to American business and industry, and for other purposes", enacted September 9, 1950 (15 U.S.C. 1151–1157), is amended by adding at the end the following new section:

"NOTIFICATION OF CONGRESS

"SEC. 8. The Secretary shall keep the appropriate committees of Congress fully and currently informed about all activities related to the carrying out of the functions authorized by section 2, including current information about the establishment of fees, the basis for such fees, the services and publications covered by such fees, and any

change in such fees. The Secretary shall also give such committees detailed notice of not less than 30 days, excluding Saturdays, Sundays, and legal holidays, of any proposed activity, including any contracts or cooperative agreements, that could result in any reduction-in-force, that would require the use of funds in excess of $250,000, or that would provide for an incentive or joint venture.".

[*SEC. 213. TRANSITIONAL PROVISIONS.*

[*(a) NATIONAL TECHNICAL INFORMATION SERVICE SUPERSEDED.—The National Technical Information Corporation shall supersede and replace the National Technical Information Service heretofore operating within the Department of Commerce, and shall assume and perform all functions heretofore vested in, delegated to, or otherwise being performed by such Service. All references to the National Technical Information Service in any law, regulation, or document shall (from and after the effective date of this subtitle) be deemed to be references to the Corporation.*

[*(b) TRANSFER OF PERSONNEL, RECORDS, ETC.—All personnel employed in connection with, and the assets, liabilities, contracts, records, unexpended balance of appropriations, authorizations, allocations, and other funds which the Secretary determines to have been employed, held, used, arising from, available to, or to be made available in connec-*

tion with, any functions of the National Technical Information Service which are vested in the Corporation by or pursuant to this subtitle shall be transferred to the Corporation.

[*(c) CONTINUATION OF PENDING PROCEEDINGS.—No suit, action, or other proceeding begun by or against any officer in his or her capacity as an officer of the Department of Commerce or the National Technical Information Service shall abate by reason of the vesting of any function in the Corporation by or pursuant to this subtitle. No cause of action by or against the Secretary, or by or against any officer of the Department of Commerce, shall abate by reason of the vesting of any function in the Corporation by or pursuant to this subtitle.*

[*(d) CONTINUATION OF EFFECT OF REGULATIONS.—All regulations issued by the National Technical Information Service, and all regulations issued by the Secretary of Commerce in connection with functions vested in the Corporation by or pursuant to this subtitle, shall continue in effect until modified or repealed by the Corporation.*

[***SEC. 214. EFFECTIVE DATE.***

[*All of the provisions of this subtitle (including the amendments made by section 212) shall become effective 30 days after the taking of office by the Administrator of the National Technical Information Corporation, but in no event later than October 1, 1989.*]

TITLE III—MISCELLANEOUS AMENDMENTS TO STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980

SEC. 301. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

Section 11 of the Stevenson-Wydler Technology Innovation Act of 1980 is amended—

(1) in subsection (a)(2), by striking "at the laboratory and other inventions" and inserting in lieu thereof "or other intellectual property developed at the laboratory and other inventions or other intellectual property"; and

(2) in subsection (b)—

(A) by striking "and" at the end of paragraphs (2) and (3);

(B) by redesignating paragraph (4) as paragraph (5); and

(C) by inserting after paragraph (3) the following new paragraph:

"(4) determine rights in other intellectual property developed under an agreement entered into under subsection (a)(1); and".

SEC. 302. REWARDS.

Section 12(1) of the Stevenson-Wydler Technology Innovation Act of 1980 is amended by inserting "computer software," after "inventions, innovations,".

SEC. 303. DISTRIBUTION OF ROYALTIES.

(a) Section 13(a)(1)(A) of the Stevenson-Wydler Technology Innovation Act of 1980 is amended—

(1) in clause (i), by striking "was an employee of the agency at the time the invention was made" and inserting in lieu thereof "has assigned his or her rights in the invention to the United States"; and

(2) in clause (ii), by striking "who were employed by the agency at the time the invention was made and whose names appear on licensed inventions" and inserting in lieu thereof "under clause (i)".

(b) This section shall be effective as of October 20, 1986.

TITLE IV—DRUG-FREE WORKPLACE

SEC. 401. DRUG-FREE WORKPLACE.

No funds authorized to be expended under this Act shall be expended in any workplace which is not free from illegal use of controlled substances.

We are pleased to have with us Congressman Walgren and Congressman Brown. We will be pleased to hear from you, as with all of our witnesses, any formal statements you have will be placed in the record in their entirety.

STATEMENTS OF HON. DOUG WALGREN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF PENNSYLVANIA; AND HON. GEORGE E. BROWN JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. WALGREN. I appreciate your inviting me to testify this morning on section 212 of the National Bureau of Standards Authorization Act, H.R. 4417. I especially appreciate your scheduling these hearings and giving it the attention of the relevant Subcommittee on Energy and Commerce. This is an issue that has been of real interest to the Science and Technology Committee.

We, of course, need to have all those committees that have jurisdiction in this area involved in the process. We appreciate your giving your time to it.

This section is identical in purpose to a bill entitled the National Technical Information Corporation Act, which I introduced last year.

The purpose is two-fold.

First, to end and really put an end to several years of ideologically-driven attacks on the National Technical Information Service by stating unambiguously in our law that the crucial function of collecting Federal and foreign scientific and technical information must remain a function of the Federal Government and not be spun out and privatized and undermined, in our view, very seriously if that were the case.

Second, to give this entity an ability to function rationally and economically to do its job well.

The NTIS has had a long history of public service dating back to its inception in 1970 as a separate Agency within the Department of Commerce. Prior to that it was known as the Commerce clearinghouse within the National Bureau of Standards.

NTIS holds the important Government responsibility to accumulate, store and distribute scientific and technical information generated by the U.S. Government scientists and engineers as well as documents forwarded to the NTIS through foreign exchange agreements by other countries.

For a number of reasons this important Government Agency is likely to fall apart if it is simply transferred to the private sector.

NTIS currently stores approximately 1.7 million documents and accumulates these at the rate of 60,000 a year. The average distribution of these documents is not high—somewhere in the range of eight copies per document.

But these are high impact copies which are used by individuals in the process of research, and the information in them is literally critical. And it is extremely important that these documents be kept through time because oftentimes the basis of a scientific point that is raised today will be developed from previous research done 10 or 20 years ago.

This Agency has seen two recent events which threaten to erode its capability to serve the public interest to the fullest extent. The first problem has been the gradual but significant erosion of its ability to distribute information efficiently.

NTIS has been unable to modernize its equipment and its activities to keep it up-to-date with the new technology of the information age, which we know has come along so quickly.

The Agency needs new computer systems to upgrade its ordinary handling and document access requirements and to meet the demands of the various media on which now information is routinely transmitted.

Although NTIS is a self-sustaining Agency which largely operates off its own revenues, the organization does not have the resources to accomplish the modernization necessary to keep technologically current.

The second event threatening to undermine the role in NTIS' purposes is more immediate and alarming, and that is the stated desire by this administration to privatize the Agency and wash the Government's hands of its responsibilities to disseminate the results of what is equal to a half-a-trillion dollars of taxpayer-funded research.

Privatization of NTIS would be wrong. In my view it would be an unmitigated disaster. The Commerce Department performed several A-76 studies since 1980 to determine if certain parts of NTIS could be better performed in the private sector.

In every study the results were that NTIS should remain within the auspices of the Federal Government. Yet, this privatization tune has played on relentlessly. After 4 years of debate, I think, in the Congress, that question should be resolved.

We should resolve it with this legislation.

My Subcommittee of Science Research and Technology on the Science, Space and Technology Committee has investigated this question several times, and witnesses, whether they were in the Federal or private sector, information specialists or occasional users, have consistently brought up the same points against privatization and concluded almost to an individual it would be a bad idea.

Most NTIS employees would be disrupted by that kind of change. Government-to-government scientific information would be put in direct jeopardy because foreign governments are not comfortable delivering their documents to a private sector entity.

Service would decline. Availability of material would be substantially reduced. And there essentially would be less information for the science and technology part of our public that needs this library function.

Many of the potential bidders for NTIS, in addition, are foreign-controlled. The prospect literally seems astounding to think about putting this kind of an information library in an ownership structure which could be influenced by foreign interests.

We took several days of testimony in March and July of 1987 and again in February of 1988 from noteworthy individuals in particular, the National Academy of Public Administration was a witness before our committee.

This is a non-partisan organization chartered by the Government. It conducted a study on the question of privatizing NTIS and concluded the most efficient method of legitimizing NTIS as a revenue-producing, self-supporting agency would be to reconstitute it as a Government corporation with a mandate to determine how to best meet its own and the public's needs.

The Government corporation is a tried and true and Truman administration vintage solution to the problems of running a Government agency on sales revenues rather than appropriated dollars, as has been the case with NTIS.

NTIS neatly fits the criteria that have been set out for establishing a Government corporation in the original Government Corporation Control Act of 1945.

One, NTIS is a revenue-producing entity. Since its creation, it sold its products and services for fees ranging at the rate of something in the vicinity of $20 to $23 million per year.

Two, NTIS is self-supporting. All NTIS activities are funded essentially through its products and its services.

Three, NTIS has a large number of business transactions with the public. Over the past 18 months NTIS sold its products to some 40,000 individuals, firms, schools, libraries and interested parties.

Corporate form, in my view, will not cause a reduction in the number of NTIS employees. It is a smooth transition from a personnel standpoint. NTIS personnel would be transferred to the new corporation as employees of the Department of Commerce and retain all their civil servant benefits.

The organization will support the employees by giving management and staff the flexibility to modernize facilities and equipment without having to resort to across-the-board arbitrary reductions in force.

The use of the Federal financing bank has been viewed as a most appropriate way to guarantee availability of funds for modernization. The Senate in its version of the corporation bill that it acted on last Tuesday makes the corporation subject to appropriations in this process of borrowing.

Thus, including the congressional appropriations process directly in the funding picture for what would be a new corporation is certainly an acceptable procedure, from my point of view.

I think we on our side should be ready to accept this limitation to assure proper oversight of their funding.

The Senate version phases in modernization money. That is consistent with the approach we would use.

They have authorized a borrowing of $5 million for facilities through fiscal year 1990 and kept that authority at $10 million thereafter.

In the trade bill, we specified that Congress desires this, whatever the NTIS is, to begin its modernization and to submit its plan within 6 months of enactment of the trade bill.

Certainly all parties involved would want this to be done in a prudent and business-like fashion.

The $10 million borrowing authority for operating expenses was reduced to $5 million in the Senate. These numbers, I think, are the kind of thing which we can certainly reach agreement on and seem acceptable on first review.

The primary intent of this provision was to give this new corporation an alternate source of funding for the brief periods when sales are reduced by change in the economy or during similar short-term situations. It is also intended to enable them to supplement sales over a 2 to 3 month period while putting in place the modernization steps that should be taken.

Incorporating NTIS does not relegate the congressional review process to the dust bin. Congress and the General Accounting Office will be able to increase their oversight of the execution of NTIS through strict annual audits and other means.

As Dr. Seidman of the NAPA testified before my subcommittee: "Conversion to a Government corporation would not impair its capacity to achieve the goals set by Congress of collection and dissemination on a cost basis of scientific and technical information. In fact, the fact that Congress chooses to call it a corporation does not alter its character as to make it something other than what it is, an agency selected by the Government to accomplish a purely governmental purpose."

Since working as a committee on this bill in April, this section has been perfected considerably. Provisions of concern to the Judiciary Committee have been removed, which we were able to do with the direction which we were going.

The section has been redrafted to avoid any changes in the act of September 9, 1950, which was written by the Commerce Committee several years before the Science Committee came into existence.

Several small changes have been made to accommodate the administration where we could. This revised text was passed by the Senate Commerce Committee yesterday and will be offered by Chairman Roe as a floor amendment if we are successful in moving this bill to the floor.

In conclusion, I hope we are all in agreement about the primary purpose of this legislation, which is the careful synthesis of a new and highly efficient distribution system for technical and scientific resources. Certainly when we look to the importance of technical and scientific information on what we hope for the future of our economy, this function must not be lost.

I appreciate your giving your committee's attention to it and the attention of the full Energy And Commerce Committee so that we can develop a consensus piece of legislation that will accomplish these ends.

Thank you very much.

Mr. FLORIO. Thank you.

Congressman Brown.

STATEMENT OF HON. GEORGE E. BROWN, JR.

Mr. BROWN. Thank you, Mr. Chairman.

Essentially, I want to echo the statement that Mr. Walgren has made. As a member of his subcommittee, I participated in debate and the discussion we had over a number of years with regard to the role of the NTIS. We think that role must be preserved and strengthened, and this is a logical way to do it.

I point out to you that in the trade bill which may be revived and enacted, there is considerable language with regard to the way we revive our technological competitiveness in the world today.

There is language intended to protect the NTIS from further erosion of its functions, which have been the efforts of this administration now for a number of years.

The NTIS is in danger of not only becoming obsolete, because of the reasons Mr. Walgren has mentioned, but of being discarded by the Government, whose responsibility it is to take an activist role in disseminating technical information produced as a result of taxpayers' dollars.

I am very concerned about this. I want to see the taxpayers get their dollars worth. I am afraid the distribution of federally-funded, scientific and technical literature is an area in which we have not been achieving what we should be doing.

NTIS is capable of fulfilling this important role and has done so exceptionally well with very little notice. But in my opinion, those days are over, and we must take advantage of the tools that we have available which can expedite and improve the information transfer process.

During the last 2 years, as Chairman Walgren mentioned, the subcommittee that he chairs has studied various alternatives. These options range from establishing separate entities within the administration to privatization, as proposed by the OMB, to assuming a greater role in distributing scientific data by establishing new central repositories.

These options were reviewed at length. In my estimation, the committee did a fair and timely assessment which culminated in the position that the Government should reestablish itself in the distribution of scientific and technical information by modifying NTIS into a Government corporation.

This is a sound alternative to the claims that privatization is in the best interest of the public. Privatization would take an already weak link in the technology chain and remove it entirely from a Federal role, leaving nothing but a gap in its place.

This loss would not be filled by a private organization primarily because the motivations and responsibilities of the private sector are very different from that of Government. The NTIS is not expected to run profitably.

We wish it to be run effectively even if this is at an expense. A privatized NTIS would not be required to interact strongly between the private sector and Government and instead would endanger already tenuous document exchange programs between Government agencies and foreign governments, as has already been mentioned by Chairman Walgren.

It is apparent that steps are necessary to halt the privatization and reverse the course of NTIS. Our Chairman's proposal for the corporation does just that.

Mr. Chairman, this concludes my prepared remarks which I have abbreviated somewhat. I ask consent to insert the full text in the record at this time.

[The statement of Mr. Brown follows:]

STATEMENT OF HON. GEORGE E. BROWN, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. Chairman, thank you for the opportunity to express my views on the Government's role in supporting scientific and technical research, and to emphasize the need for improvement in the way we carry out our responsibilities when it comes time to distribute the results of that research. I hope that my voice adds an additional urgent note to the one just sounded by my esteemed colleague and subcommittee chairman, Mr. Walgren, that this Congress, and this Nation, cannot sit idly by and watch the Information Age disappear over the horizon while we debate the issues to death.

Until recently, the Government has seen its role in the acquisition and storage of research information as largely that of investigators and archivists. Our agencies would seek out and acquire technical and scientific data and then reduce the level of effort once the technical material is cataloged and deposited. What effort has been made in the past to communicate the availability of this material to the research-using populace has needed bolstering. The scientific community's weakest link in the chain by which research is developed and used has been information dissemination.

Mr. Chairman, the United States is at the point in the Information Age when it must recognize the important link that scientific and technical information dissemination provides in the technology development process. One of the most important resources available to the public is the National Technical Information Service (NTIS). The Government cannot act as benign caretakers of the world's largest collection of scientific and technical literature; it cannot merely wait for interested individuals to take the enlightened step of inquiring about technical information resources. Today, we have in our grasp the tools by which we can revolutionize the way we store, manipulate, and retrieve data, and yet we are allowing the fruits of most of the Government's scientific and technical research to literally gather dust on the shelves of our Nation's institutions.

The U.S. Government spends billions each year to support research and development in a host of areas which are too numerous to mention; yet, when it comes time for the Government to circulate the results of this research, we depend on a largely informal network system of conferences, magazines, and personal contacts to communicate results. Now from my involvement in technology transfer I know that one-on-one communication is the most effective means for relaying results. However, the Government's responsibility to propagate scientific and technical information does not coincide neatly with these excellent but unmethodical activities. The Government has at its disposal an organization which, by design, is meant to be active in the transfer of results between interested parties. And one would think that as the available methods grew by which it could perform this task, the organization would grow as well.

Sadly, it has not, and the National Technical Information Service is now in danger of not only becoming obsolete in its ability to carry out its mandate, but of being discarded by the very government whose responsibility it is to step up and take an activist role in disseminating technical results.

Mr. Chairman, I am very concerned about this because I want to see the taxpayers get their Federal dollar's worth, and I am afraid that in the distribution of federally-funded scientific and technical literature we are lacking in punch. NTIS is capable of fulfilling this important role and has done so exceptionally well with little notice. But in my opinion those days are over and we must take advantage of the tools we have available which can expedite information transfer. NTIS doesn't cost the government anything now, and I think we are getting alot pretty cheaply. It's time to make a commitment to improve this resource, and give NTIS the authority to modernize its operations in whatever way it sees fit, with oversight by Congress and the General Accounting Office (GAO). That process can begin with enactment of section 212 of H.R. 4417, which is before your committee.

In 1987 and 1988, our Subcommittee on Science, Research and Technology studied various alternatives to improve the Government's role in science and technology. These options ranged from establishing separate entities within the administration overseeing science and technology, to privatization of the Government's role of information distribution, to assuming a greater role in distributing scientific data by establishing a new central repository. These options, as proposed by the administration and in bills such as H.R. 2159, H.R. 1615, and H.R. 1616, were reviewed at length before any conclusions were reached. In my estimation, the committee did a fair and timely assessment which culminated in the decision that the Government

should reestablish itself in the distribution of scientific and technical information by modifying NTIS into a government corporation.

The National Technical Information Corporation is a sound alternative to the claims that privatization is in the best interest of the public. Privatization would take an already weak link in the technology chain and remove it entirely from the Federal role, leaving a gap in its place. This loan would not be filled by a private organization, primarily because the motivations and responsibilities of the private sector are very different from Government. The NTIS is not expected to be run profitably in Government; rather, we wish it to be run effectively, even if this is at an expense. A privatized NTIS would not be required to interact strongly between the private sector and government, and instead would endanger already tenuous document exchange programs between agencies and even foreign governments. A privatized NTIS would lose accountability to the Congress and the public, and potentially stall our country's attempts to regain competitiveness by disseminating scientific and technical information in a timely and cost-effective basis. It is apparent that steps are necessary to halt the privatization and reverse the course of NTIS, and the subcommittee chairman's proposal for the NTIC does just that.

Mr. Chairman, this concludes my prepared remarks, and I hope I have fostered a sense of urgency in support of this legislation. We must put in place a policy which will strengthen our Nation's scientific and technical institutions.

Mr. FLORIO. Let me thank both witnesses for your participation.

What I am struck by is the possibility this proposal is designed to deal with a very legitimate problem that is almost in the process of resolving itself.

If we are concerned about what are alleged to be inappropriate actions by the administration to privatizing this organization, which you and others obviously feel is not desirable, the administration is almost over.

In my understanding, likewise, OMB, Mr. Miller, apparently, stated they are in the process of backing off of some of their proposals. The rationale to go to a corporate system may very well not be here if we don't have to face that problem.

The corporate structure that you are talking about is certainly better, in your view, and I will subscribe to it for the moment, than a privatized operation. But it certainly is not as good as a legitimately run governmental operation because clearly even the private corporation is going to be less responsive than would be a full functioning, effectively functioning entity under the Department of Commerce or whatever other governmental agency we place it under.

Over and above that, we are then talking about establishing the corporation headed by whomever that will be appointed by officials of the administration, whose philosophy you are lamenting setting that entity out there, again, being less responsible than would be an online agency that is directly responsible to us.

Are these considerations that would cause either of you to share my concern?

Mr. BROWN. That is a very perceptive observation, Mr. Chairman.

I think insofar as this restructuring was motivated by a defensive outlook, that is a desire to prohibit the privatization initiatives of OMB, that it probably is not necessary. I think then we have to look at the desirability of the new structure in terms of being able to more effectively carry out the mandate of the organization, and particularly in increasing the availability of investment capital here.

I am not talking about operating funds, but the availability of money to modernize and to maintain a high level of effectiveness in doing the job that is supposed to be done.

I confess I am not an expert in this area. A malevolent Congress can equally well provide that capital if it wishes to do so.

Mr. FLORIO. Isn't the money being proposed in this bill as the independent source of investment capital still Federal dollars anyway?

You are talking about borrowing authority that is going to be Federal borrowing authority. One way or the other, it seems to me, the cutting edge difference is the question of whether you have more or less responsibility in the two structures.

By definition, you will have less responsibility with a corporate structure than you will if you have an in-house operation. I realize the down side. If you have an in-house operation, you have people in charge who don't believe in the mission of the Agency, which you seem to imply has been the case over the last number of years.

That is a problem. Doesn't this dictate that we at least wait a period of time, like about 7 or 8 months, to find out whether there is a need to be continually concerned about the course of account?

And if not, then we may very well be able to get more benefits if you had an administration that is committed to the goals that you enunciate and is willing to have direct hands-on accountable, taken to facilitate those types of things?

Mr. WALGREN. If I might, Mr. Chairman, the administrator under this proposal would be appointed at the pleasure of the President. Therefore, the new President whoever he is would certainly have the power to have this entity administered consistent with his direction and his thrust.

Mr. FLORIO. Let me get some clarification on that. Presumably, I mean if we had expeditious consideration of this, and it was passed and signed into law next month, it would be President Reagan, of course, who would make that appointment.

Are you telling me that the individual would be at the pleasure——

Mr. WALGREN. It is my understanding the incoming President would be able to appoint his own administrator.

Mr. FLORIO. No. We have a distinction here. Someone is telling me it is a 6-year appointment, which means someone that is appointed now——

Mr. WALGREN. In the Senate amendment which we are anticipating working with, this administration's power over this Agency will not last beyond the next President taking office.

Mr. FLORIO. I don't know how that works. How does somebody who gets a 6-year appointment, the next President?

Mr. WALGREN. Let me see if I can get some advice on the question.

Apparently in the negotiations over this bill, the Senate has turned away from the 6-year term. The anticipation now is there would be an administrator appointed at the discretion of the President, and it would not be for a fixed term. It would be—that person would be able to be replaced.

Mr. FLORIO. Let me just say, it makes me feel a little more comfortable maybe. But, what you are doing is saying that we have

now gone through a charade of having independent corporate walls.

If someone comes in who wants to do what this administration wants to do, they can then appoint someone to do indirectly what someone has tried to do directly.

Either you get the benefit of a walling off of the corporation or you don't.

Mr. WALGREN. If the Chair would permit, it seems to me that the major benefit of the walling off of the corporation is whatever flexibility we can give them in their financial planning and modernization. We do keep this, as I understand it, we anticipate keeping this within the appropriations process so that their year-to-year budget is subject to appropriations.

That means essentially that there is a lot of influence in any administration. We in the Congress have a hard time requiring administrations to do what they don't want to do. I don't think that we would be more at risk in this structure than we are with a number of government agencies which we cannot get to do what we would like them to do.

Mr. FLORIO. If the appropriations process is going to be continued, we have not then in any way changed that factor. If we are going to say we have independent borrowing authority for capital modifications, that is fine.

But again, that is a public sector expenditure as well, which is not reviewable by the appropriations process. And if we are then saying that we are going to be dependent upon incoming revenues to make, and this is self-sufficient, that is the case now.

How is that being changed in any way for the betterment of the function of the operation?

Mr. WALGREN. I don't have the best answer to that, Mr. Chairman. As I understand it, this Agency operates essentially on its cash flow.

Mr. FLORIO. Now?

Mr. WALGREN. Now. It cannot come back into the Congress on a month-by-month basis and get a new appropriation. Yet, there are certain investments that it could wisely make in technology, in information technology that should be made during the year.

And those investments are more easily made by being able to reach what is a small amount of money through the Federal loan system than relying solely on an appropriation. Ultimately the Congress has the appropriating power and has all the controls of the Agency coming to it to justify what it wants to do and what it has done during the last year.

Mr. FLORIO. I guess I still don't understand what it is that entity will be able to do in the corporate form that it can't do now.

Mr. WALGREN. It is my understanding that it would be given a range of money to borrow, that it could borrow through the Federal loaning system, and that it could make those borrows in a year when its management felt it was useful without having to go to Congress for a, quote, appropriation at that point.

If we don't have that kind of managing flexibility, we will continue operating under the present circumstances, which are inadequate. This Agency is extremely backwards at this point.

And the advice we get from the private sector is that the reason it is backwards is it has had no flexibility in its 12 month operating cycle.

It is very hard to get the Congress to appropriate more than just the fees if the Agency on a year-to-year basis is to come in and say we generated X number of dollars this year. It is very hard to get the Congress to appropriate something that is different than that.

Although we don't intend them to go heavily into debt, clearly an Agency operating like this has to have the ability to incur some debt during the year.

Mr. FLORIO. I guess I would be a little concerned if the modification you are talking about working its way through the Senate comes to pass, that the President, whomever the President is, decides he wants to put somebody in the position of authority and decides this corporation wants to be out there investing in certain types of capital equipment that is going to make it available at premium rates to somebody out in the private sector.

We now have that borrowing authority which is no longer subject to review by the Congress' appropriation process. I am really struck by the fact that we are sort of on the horns of a dilemma here. Either we do have an entity out there that is capable of being reviewed or we don't.

I am going to be looking into this. I think we all should be looking into it.

My predisposition is if this is a governmental function, which it is, we ought to be in charge of it. I am not interested, absent some reason, and you have detailed what historic reason, the recent historic reason has been as to why we want to give this some thought.

But other things being equal, I am not sure I really share the philosophic belief that we should be passing these things. It is the same argument we heard a couple of years ago for having an independent EPA.

People said, fine, the EPA under the previous people down there wasn't working very well. We will have an independent EPA. Independent also means unaccountable EPA.

If you put the wrong people in charge of an independent EPA, you get independent irresponsibility. I would almost rather have in-house operations so if somebody is doing bad things, there is at least a tie so you can wrap it around someone's neck and the public then sees who is responsible for doing the bad things.

The preference is to have people in positions of authority who are going to do the right things with these agencies.

A question has been brought to my attention with regard to some studies at the Agency that have been commissioned, that are supposed to be supported by fees set by NTIS at a level designed to cover costs, and that these commissions that the Science Committee has requested were all NTIS functions that are apparently not going to result in the fees being achieved.

Are you familiar with that?

Mr. WALGREN. No, I am not familiar.

Mr. FLORIO. They are adding to the cost of the Agency with no expectation that the Agency will be able to obtain the fees back.

Mr. WALGREN. I am not familiar with that.

Mr. FLORIO. We will send you this information and would like your thoughts on it.

If there is no further information you wish to provide, let me express to you my appreciation for your participation today.

We will move to Mr. Barry Beringer, the Associate Under Secretary for Economic Affairs of the Department of Commerce.

Mr. Beringer, we welcome you to our committee. Your statement will be made a part of the record in its entirety. We would be pleased if you would present it in a summary fashion.

Mr. BERINGER. For the record, I would like to introduce Dr. Joe Clark, who is the Deputy Director of the National Technical Information Service.

STATEMENTS OF BARRY C. BERINGER, ASSOCIATE UNDER SECRETARY FOR ECONOMIC AFFAIRS, DEPARTMENT OF COMMERCE, ACCOMPANIED BY JOSEPH CLARK, DEPUTY DIRECTOR, NATIONAL TECHNICAL INFORMATION SERVICE

Mr. BERINGER. I would like to thank you for the opportunity to appear before you today discuss our plans for the future of the National Technical Information Service, NTIS, and to comment on H.R. 4417, the National Bureau of Standards Authorization Act, as it affects NTIS.

NTIS operates as a central contact and repository for public access to unclassified scientific and technical information developed under government sponsorship. As an integral part of the Department of Commerce, the NTIS mission is to facilitate private sector use of this information in the development of products and services that foster U.S. economic growth.

The NTIS information clearinghouse operation is comprised of three basic elements: the acquisition of government-sponsored unclassified scientific and technical information; the bibliographic processing of this information so that users can identify and obtain the materials which will further their research efforts; and, the sale and distribution of the announcement products containing the bibliographic information and of the information itself in the form of technical reports, data files and software tapes.

NTIS also operates the Center for the Utilization of Federal Technology authorized in the Stevenson-Wydler Technology Innovation Act, Public Law 96-480; manages a patent licensing program authorized in Patent Rights in Inventions Made with Federal Assistance, Public Law 96-517, and modified in the Federal Technology Transfer Act, Public Law 99-502; and assists the Department of Commerce's Japanese Technical Literature Office established pursuant to the Japanese Technical Literature Act, Public Law 99-382.

The NTIS program is self-supporting as set forth in Title 15 of the U.S. Code 1151-7, with all costs covered by revenues earned from the sale of NTIS products and services. This statute authorized NTIS to operate on a self-sustaining basis and to charge fees for its products and services.

Fees are set by NTIS at a level that is designed to recover costs. To the extent that there may be surplus clearinghouse revenues, NTIS is required to deposit such surpluses into the miscellaneous

receipts account of the U.S. Treasury. Also NTIS provides accounts receivable billing and collection services for Federal agencies which offer information services to the public. Surplus revenues from these activities are also deposited in the U.S. Treasury on behalf of those agencies.

Royalties paid to NTIS by patent licensees are required, by Public Law 99-502, to be returned to the inventor and to the inventor's laboratory.

In our continuing efforts to improve NTIS functions, we have proposed legislation which would permit NTIS: (1) to use its receipts for the acquisition of capital equipment and inventories; (2) to procure printing services without regard to section 301 of Title 44 of the U.S. Code, which generally requires use of the Government Printing Office; and, (3) to make flexible use of contracts and cooperative agreements with the private sector.

Our proposal, which is limited in scope, addresses shortcoming in current NTIS authorities.

In the past the General Accounting Office and the Office of Management and Budget have raised questions about NTIS' use of its revenues to purchase capital equipment and inventory. Our proposal to permit such use is designed to clarify NTIS' authority on this point.

Such authority would make clear that it is the intent of Congress and the administration to allow NTIS to make the necessary equipment purchases to modernize NTIS within its existing resource base, without the use of appropriated funds.

Our proposal would also allow NTIS to secure printing services on the most competitive, creative and cost-effective basis.

Finally, our bill would clarify that NTIS operations may be improved through contracts. This will allow greater flexibility in the administration of NTIS which will result in better products and services at or below current prices.

Turning to the bill before this subcommittee today, we support the objectives of H.R. 4417. However, we oppose restructuring NTIS as a government corporation. We would prefer the more limited approach of the three-part proposal I have just outlined.

That completes my prepared testimony, Mr. Chairman. Deputy Director Clark and I will be glad to answer any questions that you may have.

Mr. FLORIO. Thank you very much.

The bill before us was developed by the National Academy of Public Administration, working under contract from the Department of Commerce, I understand. In a sense, what you are doing is repudiating a product that you paid for.

First of all, how much did you pay for it and, over and above that, how did things get to this stage?

Mr. BERINGER. Over the past several years, as has been outlined, we have been looking at various ways of trying to bring NTIS up to the current state of technology as far as information processing.

We had proposed several years ago a $5 million Federal revolving fund, which was acted upon by the Senate Commerce Committee and the House Science and Technology Committee. However, the Energy and Commerce Committee felt that this did not have the proper accountability to the Congress.

Mr. FLORIO. Financed how?

Mr. BERINGER. $5 million out of the Treasury.

We then proceeded basically to the contract and said to NAPA—and Dr. Clark will correct me if I am misstating—"Give us some recommendations as to what you think the structure of NTIS might be, including the possibility of a corporation; also re-examine, if you will, the revolving fund concept and whatever else you might put on the table."

So basically what we asked for, from what I understand, was a study of those proposals which are subsequently reviewed by the administration in a greater context. We came to the conclusion rather recently that a more limited approach, as I outlined in my testimony, would be more appropriate.

Mr. FLORIO. The amount paid for the study was what?

Mr. CLARK. It was less than $10,000.

Mr. FLORIO. Is it my understanding that there is a legal impediment, or is it a policy impediment, to utilizing revenues generated for capital investments?

Mr. BERINGER. Both OMB and GAO have said that it is an improper use.

Mr. FLORIO. They are asserting a legal impediment.

Mr. BERINGER. An accounting and a legal impediment.

Mr. FLORIO. It is either legal or it is not legal.

Has somebody given a citation?

Mr. CLARK. To my knowledge, there has not been an explicit claim of illegality.

Mr. BERINGER. They say it is improper.

Mr. FLORIO. Improper, whatever that means.

Is it your policy view that there is a need, however it is funded, for periodic modernization of the capital plant, I mean the computers, and therefore it should come from somewhere?

The answer to the question seems to be fairly obvious.

Mr. BERINGER. Yes, sir. The problem is that the GAO report has been hanging over the head of NTIS for a number of years, saying you should not be using your current revenues because they are really customer revenues. They are held in trust for customers. That is the basis of it.

Mr. FLORIO. I am not familiar with the report, but the rationale for this trust theory is what, the idea that revenues cannot be used? Certainly the customers are going to derive the benefit out of better plant and modernizations.

Mr. BERINGER. It is viewed like a subscription to Reader's Digest. The customers send money in to NTIS and draw from their own individual accounts. For instance, they will deposit, say, $1,000 and then from there say we would like to order such and such a pamphlet.

Mr. FLORIO. So the general policy probably can be resolved very quickly by us merely changing the statutory authority for the Agency to say, yes, you shall be able to use sources of income for performing the functions of the Agency.

Mr. BERINGER. That is correct.

Mr. FLORIO. Are the functions added by the Science Committee since 1950, mentioned in page 2 of the letter of the Secretary of Commerce, funded from fees charged for sales of the reports?

If the answer is yes, is that something that is legitimate under the 1950 bill?

Mr. BERINGER. I am sorry, I did not quite follow the question.

Mr. FLORIO. You have reference to the reports I am making reference to, on page 2.

Mr. BERINGER. Dated June 29?

Mr. FLORIO. Yes.

The question is, are those studies, the conducting of the studies, funded from fees which are anticipated to be charged for sales of the reports? That is the first question, and if the answer is yes, that those studies will be funded from those fees, is that permissible under the 1950 act?

Mr. BERINGER. I would say yes in the context of the other authorities that have been given to the Commerce Department.

Mr. FLORIO. So, you are saying there are specific authorities to allow those fees to be used for the conducting of studies, but there is not specific, explicit authority to have those fees used for the production of a system that may very well contribute to the dissemination of those reports or the gathering of information that would be needed for the accumulation of those reports?

Mr. BERINGER. I would say so, yes, sir.

Mr. FLORIO. It doesn't appear to make a whole lot of sense, the artificial distinctions between the uses of the fees for conducting of the studies but not for the mechanical devices used to put the studies together or disseminate them.

Mr. BERINGER. Do you care to elaborate, Joe?

Mr. CLARK. I would make one comment. All the moneys that NTIS expends are directed at improving the products and services that we provide. Occasionally some studies are required to find out the best way to improve the products and services. Examination of the systems that would improve the delivery of the materials that we collect is something that we have also done.

So, we are interested rather broadly in providing the information that we can, the best information that we can, as quickly as we possibly can.

Mr. FLORIO. How do you do even minimal long-term planning when you are at the mercy of the fee generating process, whether something does or does not generate the fees, how can you even undertake long-term planning?

Wouldn't it be preferable to rely on appropriated moneys for those types of things?

Mr. CLARK. Our approach to the management of the operation is that management begins with planning. We have a fairly extensive system for collecting views of whether our systems need improvement, where our products and services need improvement and for dealing with those in a fairly structured fashion in a strategic planning activity which senior management of the organization spends a substantial amount of its time and effort on.

Mr. FLORIO. If a congressional committee directs you to undertake studies and there is no direct appropriation for that, how is that compatible with orderly planning of your functions?

Mr. CLARK. I don't think we have been specifically directed by the Congress to undertake any extensive studies that have required appropriations.

Mr. BERINGER. Mr. Chairman, in the past, when it was necessary for NTIS to receive authorized or appropriated funds, they have done so. For instance, in the Center for the Utilization of Federal Technology, the Patent Licensing Program, there have been appropriations.

However, with the Technical Transfer Act passage in 1986, sufficient revenues have been generated which covers NTIS patent licensing costs. If there ever came a point where they would need additional moneys, of course they would come to the authorization committee, which has been the House Committee on Science, Space and Technology and the Senate Commerce Committee.

So, we feel that that would be covered. As far as long-term is concerned, we understand that the Senate bill also has a provision which would allow NTIS to invest its float in Government obligations. This is typically $10 million, so it would generate maybe $500,000 a year.

Mr. FLORIO. The float, are you talking about the bonds?

Mr. CLARK. No. It is the cash flow.

Mr. BERINGER. No, no, definitely not. Generally, because of the number of revenue sources they have, they have, say, $10 to $20 million in the bank. If they were allowed to invest that in Government obligations and retain those earnings, then they would receive an additional, we estimate, $500,000.

Mr. FLORIO. You don't need an appropriation to do that. If we pass the bill saying you can do it, you can do it.

Mr. BERINGER. That is correct.

Mr. FLORIO. Thank you both very much for your participation today.

Mr. FLORIO. We will move to our next panel. Dr. Eric Leber, Executive Officer of the Council of Scientific Society Presidents; and Dr. Harold Seidman, Member, Standing Panel on Executive Organization and Management, National Academy of Public Administration. We will be happy to hear from you.

STATEMENTS OF ERIC LEBER, EXECUTIVE OFFICER, COUNCIL OF SCIENTIFIC SOCIETY PRESIDENTS; AND HAROLD SEIDMAN, MEMBER, STANDING PANEL ON EXECUTIVE ORGANIZATION AND MANAGEMENT, NATIONAL ACADEMY OF PUBLIC ADMINISTRATION

Mr. LEBER. Thank you very much.

We welcome the opportunity to say a few words about the proposed legislation. My name is Eric Leber. I serve as Executive Officer of Council of Scientific Society Presidents. The CSSP is made up of Presidents of roughly 40 professional scientific societies. They span the broad spectrum of the physically, mathematical and health-related sciences in the United States.

The selective membership of the supporting societies is approximately 1 million individuals. I might point out that these individuals insofar as they are a sizable fraction of the U.S. scientific community, do have an important role in the production of the scientific and technical information, as well as the use of the scientific and technical information that we are discussing here today.

On the other hand, they do not profess to be experts in corporation or organizational structure. Some of the items that have figured importantly in our discussions today——

Mr. FLORIO. Are they the customers?

Mr. LEBER. They are the producers as well as the substantial fraction of the customers of the services provided by NTIS.

Mr. FLORIO. I assume customers would be private corporations and the like.

Mr. LEBER. That is correct. Historically, this Council of Scientific Society Presidents has been acutely aware and very concerned about the production, storage, acquisition of scientific and technical information. We do have the very strong belief that this information is of extraordinary importance to the continuity and integrity of the scientific enterprise in this country.

Also, it is important for the application of the derived knowledge to advancing our technologies. Of course, that is the basis for our competitiveness in the international marketplace. We have often reviewed the question of access to scientific information and to the Federal provisions for scientific information, and that has figured prominently in our statements over recent years.

There are three general principles that we encourage in regard to the Federal provisions for scientific information. We do point out that information collected by the Government is a most invaluable resource for the economy and the society, and that legislation that would promote the full utilization of this resource deserves the full support of the scientific community.

We also emphasize that access to unclassified nonproprietary or non-private information collected by the Government must be uninhibited and open to access to this information as the citizens' right in a modern society, and is essential to achieving the national goals that we have established.

Moreover, the Federal Government does have a responsibility to be sure the information it collects is disseminated broadly and effectively. These are among the principal points that we incorporated in testimony over recent years before Mr. Brown's and Mr. Walgren's committee in relation to the legislation that proposed alternative structures for NTIS and served as a forum for the privatization of the NTIS.

When we commented before these other committees, we did indicate that we strongly felt that access to the Federal Government technical information should be both simple and economical and, of course, that that information should be most accurate and timely.

We believe that the collection of information by the Government must be adequately funded and particularly when the Government is the only body able to obtain that information.

We believe that the Government should provide indexes and abstracts of the source materials in order to facilitate the retrieval of appropriate information. We strongly believe that archiving should be maintained in a most complete way in order to provide future seekers of information the facilities to retrieve the information that they need.

We do believe in a marketing service to enhance the distribution and utilization of the Federal information to maximize its value to the Nation.

We have identified these items and the underlying concerns in reference to previous alternative structures to NTIS, because we were concerned about possible disruptions to the continuity of the supply, the provisions, the accessibility of scientific information.

We were concerned about the quality and the timeliness of that information. We had concerns about the completeness and the accessibility, what we call the one-stop-shopping provision that presently resides with the NTIS, and we were concerned about the uniformity of the services provided.

Those are the concerns we voiced in earlier statements and testimony. We have carefully reviewed the provisions of H.R. 4417(b), and as you know, that would propose to reconstitute the NTIS as a wholly-owned Government corporation.

We are quite pleased with the explicit attention given to modernizing the operations and improving the quality and scope of the services provided under the proposed NTIS. We would like to go on record in support of the provisions of H.R. 4417.

Thank you, sir.

[The statement and attachment of Mr. Leber follows:]

STATEMENT OF DR. ERIC LEBER, COUNCIL OF SCIENTIFIC PRESIDENTS

Mr. Chairman, my name is Eric Leber, and I am Executive Officer of the Council of Scientific Society Presidents (CSSP). The Council is made up of the presidents and other senior officers of more than 40 scientific societies, covering the physical, mathematical, and life sciences. The combined membership of these supporting societies is approximately 1 million individuals.

The CSSP welcomes the opportunity to offer some views on the proposed National Technical Information Corporation, as defined under Title II, Subtitle B, of H.R. 4417, the "National Bureau of Standards Authorization Act for fiscal year 1989".

At the outset, I would like to express the Council's strongly held belief that scientific and technical information is of extraordinary importance to the continuity and the integrity of the scientific enterprise in the country and to our ability to apply the derived knowledge to advancing technologies that constitute the basis for our Nation's strength and competitiveness in the international marketplace.

Issues relating to the accessibility to and the quality of scientific and technical information have featured prominently in the deliberations of CSSP over the past several years.

Regarding the Federal role in the management of information, including its acquisition, storage, processing, and retrieval, the CSSP endorses the following general principles:

1. Information collected by the Federal Government is an invaluable resource for the economy and for society. Legislation that promotes full utilization of this resource deserves the support of the scientific community.

2. Access to unclassified, non-proprietary or non-private information collected by the Federal Government must be uninhibited. Open access to this information is a citizen's right in a free society and is essential to the achievement of national goals.

3. The Federal Government has a responsibility to insure that the information it collects is disseminated effectively.

These three points represent the foundation of CSSP's statements and testimony of last year on related legislation introduced by Congressman Walgren and Congressman Brown. A copy of a more detailed statement presented during the hearings of July 14, 1987, conducted by the Subcommittee on Science, Research and Technology, of the Committee on Science, Space, and Technology, is attached for your reference.

As regards the provisions of legislation in this area, we believe that certain fundamental policies must be observed:

1. Access to Federal Government information should be simple and economical. The information itself should be accurate and timely.

2. Collection of information by the Federal Government must be adequately funded, particularly when the Federal Government is the only body able to obtain the information.

3. The Federal Government should develop indexes and abstracts of its source materials so that information seekers can easily and effectively retrieve what they need.

4. Federal Government information must be archived, even if the archiving activity cannot be made self-supporting, since future needs for the information cannot be anticipated.

5. Federal Government information must be marketed to those who can benefit from it in order to maximize its value to the Nation.

Mr. Chairman, the underlying concerns along these lines were that the organic language of the earlier proposed alternatives to the National Technical Information Service (NTIS), their proposed structures, and the resources available to them would not necessarily be conductive to maintaining the continuity, the quality, the timeliness, the completeness, the accessibility (the "one-stop shopping"), and the uniformity of the services provided. (I should emphasize that the discussion of recent years of "privatizing" the NTIS considerably exacerbated these concerns.)

Careful review of the Title II, Subtitle B and associated background material suggests that these concerns have been responsibly addressed in this legislation reconstituting the NTIS as a government corporation under the direct supervision of the Secretary, U.S. Department of Commerce. Moreover, explicit attention is given to modernizing the operations and improving the quality and scope of services provided under the authority of the National Technical Information Corporation. And, thus, we wish to support the related provisions of H.R. 4117.

Thank you for the opportunity to submit these views for your consideration.

STATEMENT

of

DR. H. MARTIN WEINGARTNER

on behalf of the

COUNCIL OF SCIENTIFIC SOCIETY PRESIDENTS

to the

SUBCOMMITTEE ON SCIENCE, RESEARCH AND TECHNOLOGY

COMMITTEE ON SCIENCE, SPACE AND TECHNOLOGY

U.S. HOUSE OF REPRENSENTATIVES

Background

Mr. Chairman and Members of the Subcommittee, my name is H. Martin Weingartner. I am a professor at the Owen Graduate School of Management of Vanderbilt University and Immediate Past President of The Institute of Management Sciences. I am representing the Council of Scientific Society Presidents (CSSP), chaired by Dr. L. Manning Muntzing, who accompanies me today. The Council of Scientific Society Presidents is made up of the presidents and other senior officers of over 30 scientific societies with a cumulative membership of approximately 800,000 spanning the physical, mathematical, and life sciences.

As a member of the CSSP, I chaired a committee which drafted a Position Statement on H.R.1615 and H.R.1616 which was adopted by the full Council in May. (I should point out that H.R.2159 had not been introduced by Representative Walgren at the time the CSSP committee did its work.)

For the record, I have provided as an attachment the Position Statement adopted (on May 13, 1987) by the full CSSP addressing those two pieces of legislation introduced by Mr. Brown.

In brief, the Position Statement on H.R.1615 and H.R.1616 strongly supports the proposition that government information is a vital economic and social resource; that citizens have a right of open access to unclassified, non-proprietary, non-private information; and that effective dissemination of this information is necessary for the achievement of national goals.

The Statement also stresses the importance of ease and reasonableness of cost of access, the essentiality of good indexing and abstracting, and the necessity for archiving of government information. These principles are substantially also contained in H.R.2159.

The concerns expressed by the CSSP are concentrated on two distinct issues. The first is that the proposal to include dissemination of government statistical information by a new agency should be approached with caution. There is need for greater standardization of data formats which a new agency may be able to bring about. Yet, interposition of an additional agency between the statistics collecting agency and the user of the data may not only create delays but could make it more difficult for consumers of the data to be able to use it.

In view of the desire, which was also expressed in H.R.2159, to provide effective indexing and abstracting of government information, among other issues, which we regard as highly important, we expressed concern over the adequacy of the proposed funding level.

Privatization Issue

Next I wish to turn to the principal questions before the Subcommittee this afternoon.

My personal bias on general issues of private versus government activity generally favors the private sector. Still, we (Here I am speaking for the Executive Board of the CSSP.) approach the proposal to privatize the National Technical Information Service (NTIS) with considerable trepidation. First, NTIS has won for itself strong support from the research community. The

system works: access to research reports is quite simple and reliable, documents are comparatively fairly priced even while the Service is self-supporting and documents are obtainable without unreasonable delay. Improvements in these dimensions naturally are always desired. New technology will make some changes feasible even within the framework of fiscal self-sufficiency.

It has not been demonstrated that activities now carried on by NTIS, if they were privatized, would be carried out more effectively or more economically, either to the government or to information users. The transition to private management is likely to prove highly disruptive to users. Further, the evidence to date suggests that not all present services would be picked up by the private sector. Congress may have to mandate activities such as archiving reports. Otherwise, we may find that availability of infrequently requested items ceases after as short a period as a year. Present tax laws, and especially the Tax Reform Act of 1986, as they pertain to the treatment of business inventories, strengthen this inference.

The private sector already plays a significant role for users, such as providing on-line access to the NTIS index. The role for private enterprise involvement in the total service can and will expand, even under present arrangements. Other "premium" services could and should be offered by private firms, as is now the case, for example, with certain information collected and disseminated by the Securities and Exchange Commission. Marketplace competition offers rewards to entrepreneurship and innovation here. Market discipline that keeps quality of service up and cost of service down, however, is not likely to function with regard to collection, storage, and retrieval of information items. It seems unlikely that more than one firm would be willing

to take over the entire set of tasks that is central to NTIS. Yet, "one stop shopping" is the reason for the existence of NTIS in the first place.

Notwithstanding these remarks, there is a considerable potential for participation by private firms in the performance of a number of the functions assigned to the National Technical Information Corporation (NTIC) in H.R.2159. Some of this is not just potential but already exists. In particular, under Section 17(k), the Corporation is directed, among other duties, "...to index and catalog such information...", and "...to make such information available...through the preparation of abstracts, digests, translations, bibliographies..." In many instances, timeliness of the information is crucial and performing these essential tasks exclusively in-house may delay the availability of reports and other information. It would be appropriate for NTIC to contract out some of these tasks, as does the National Medical Library, for example, so long as the Agency is held responsible for the resulting products.

Additionally, private firms exist which serve as "information brokers" to libraries and other information users. They already fill in gaps by simplifying the acquisition of both government and other materials for libraries where multiple items or standing orders are involved, for example. These firms generally do not inventory the items but transship them. In most instances. They are also able to sell on credit, if they are willing to take the credit risk, which the NTIS cannot do. Such firms exemplify the "premium services" for which some users are willing to pay while not all users are forced to do so.

In sum, we would judge that the optimum balance strongly favors retention by the Federal Government of substantially all present NTIS activities, such as

is proposed in H.R.2159, except as already discussed. This leaves plenty of room for private business to expand the range of services as they discover a demand for them.

Structure of Dissemination Activities

In response to the question regarding the structure of all government information, I have already expressed CSSP's concerns regarding statistical information. The trade-offs between centralizing the dissemination of government statistics and retaining this function in their present agencies currently favors the latter. Timeliness, accuracy, and possibly cost considerations argue in favor of maintaining organizational proximity between collectors and disseminators of statistical information. Such data are always processed by the collecting agency. Additionally, when made available to users in electronic form, such as census data on computer tape, knowledge of data formats by personnel of the distributing agency is essential. Users must have access to such personnel. The collecting agency has less of an incentive to offer such service when sale of the information is handled at another agency. Training of experts by the collecting agency introduces time delays, cost and increased chances for communicating incorrect information.

One additional comment on this subject seems appropriate. Funds available to a Federal agency for collecting and processing statistics are likely to be reduced if revenues from the sale of statistical information are taken from the collecting agency, or if allocations for distribution of the information are taken away. We have already expressed our great concern that statistics gathering by the Federal Government is not nearly keeping pace with the growth in size and complexity of the economy. This impacts adversely not only the

executive branch of the government and Congress but it also hurts the business world, as well as researchers in universities.

Information Policy Management

The question of information policy management is a vexing one. As is the case with numerous evolving technologies, prematurely locking into standards of form or substance can be more harmful than failing to set such standards. The present state of information technology argues against setting standards now that would apply to all information formats, especially as they apply to electronic information sources. The same conclusion applies to the system for the creation of abstracts and indexes and similar products. A Federal "information Czar" would feel compelled to make rules, even though the present state of knowledge does not justify them in many areas.

Despite this observation, greater coherence in Federal information policy is desirable. The President's Science Advisor has been charged with that duty for some time. Lack of follow-through on this subject, despite turnover in that office, suggests the difficulty of the task as much as, perhaps, the relatively low priority given it.

Summary

To sum up, let me state that we generally favor the approach taken in H.R.2159, which retains NTIS as a self-supporting activity of the Federal Government. The bill permits contracting out such tasks as abstracting and indexing of government material, and leaves room for private business to furnish "premium services". It also protects the integrity of the Government information collection.

ATTACHMENT

COUNCIL OF SCIENTIFIC SOCIETY PRESIDENTS

Position Statement

Regarding Legislation on Establishing a
Government Information Agency

May 13, 1987

The Council of Scientific Society Presidents (CSSP) endorses the following general principles with respect to bills H.R.1615 and H.R.1616 on the subject of Access to Federal Government Information, introduced by Representative George E. Brown, Jr.

1. Information collected by the Federal Government is an invaluable resource for the economy and for society. Legislation that promotes full utilization of this resource deserves the support of the scientific community.

2. Access to unclassified, non-proprietary or non-private information collected by the Federal Government must be uninhibited. Open access to this information is a citizen's right in a free society and is essential to the achievement of national goals.

3. The Federal Government has a responsibility to insure that the information it collects is disseminated effectively.

In light of these general principles, CSSP further asserts that any legislation in this area should embody certain policies:

1. Access to Federal Government information should be simple and economical. The information itself should be accurate and timely.

2. Collection of information by the Federal Government must be adequately funded, particularly when the Federal Government is the only body able to obtain the information.

3. The Federal Government should develop indexes and abstracts of its source materials so that information seekers can easily and effectively retrieve what they need.

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The views expressed by CSSP are those of its members and do not necessarily represent the official position of their respective organizations

4. Federal Government information must be archieved, even if the archiving activity cannot be made self-supporting, since future needs for the information cannot be anticipated.

5. Federal Government information must be marketed to those who can benefit from it in order to maximize its value to the nation.

CSSP endorses H.R.1616. It also endorses the objectives of H.R.1615 (insofar as it pertains to the sale of government information), but expresses its concerns with H.R.1615:

1. Passage of the legislation must not be allowed to reduce funding of information collection activities, especially government statistics, which are already woefully underfunded.

2. The proposed new central agency will be an intermediary between the users of information and the agencies that collect it. The legislation should require the information agency to provide assistance in interpreting data formats. This assistance is now provided by the collecting agencies.

3. Funding of the agency as proposed in the legislation does not appear adequate to accomplish the objectives central to its purposes:

   (a) centralized and improved indexing services;

   (b) research into better abstracting schemes and implementation of these improved schemes;

   (c) developing standards for information interchange or, at a minimum, of standards for specifying document and data formats.

4. The private sector now offers "value-added" services connected with Federal Government data bases. The legislation should encourage these complementary private sector activities and not impede them.

5. The name "Government Information Agency" has negative connotations such as invasion of privacy. A more appropriate name, without these connotations, should be selected.

Mr. FLORIO. Thank you.
Dr. Seidman.

STATEMENT OF HAROLD SEIDMAN

Mr. SEIDMAN. Before proceeding with the prepared statement, I would like to try to be helpful and try to answer the questions you asked, Mr. Walgren, because I think there were misconceptions there.

The issue of privatization is a government issue which is not entirely germane. Our panel would have recommended a government corporation for NTIS. The government corporation is not insulated from the rest of government. It will be a part of the Department of Commerce.

The employees will remain in the same status. It is a different way of doing business. It provides for more effective accountability which was the intent of Congress when they created the Government Corporation Control Act.

Basically, we are two systems. One is applicable to tax-supported, non-revenue-producing programs, and another system which is applicable to revenue-producing programs intended to be self-sustaining, which require different methods of financing, auditing, accounting and budgeting.

NTIS today is under the wrong system. That is part of its problem. One of the basic misconceptions that I think was raised was, does this change the accountability to the Congress? I submit that it improves the accountability.

NTIS does not come in for budget review. Under the Government Corporation Control Act, this is something that is misunderstood which is now codified as 31 U.S.C. 9102. The corporation is required to come in each year to the Congress with a business type budget. I think it would be useful to read the language of what that provides, because it answers a lot of the questions.

The budget programs shall be considered and legislation shall be enacted making necessary appropriations as may be authorized by law, making available for expenditure for operating administrative expenses such corporate funds or limiting the use thereof as the Congress may determine and providing for the repayment of capital funds and the payment of dividends.

The provisions of this section shall not be construed as preventing the government corporations from carrying out their responsibility.

[The prepared statement of Mr. Seidman follows:]

STATEMENT OF HAROLD SEIDMAN

Mr. Chairman, Members of the Committee: I am pleased to accept the invitation of your committee to present my views, based on the work of a panel of the National Academy of Public Administration, on subtitle B of H.R. 4417 providing for the establishment of a National Technical Information Corporation.

The National Academy of Public Administration is a nonpartisan organization formed in 1967 to advance the effectiveness of public management through advice and counsel to all levels of government. The Academy members, elected by their peers, consist of distinguished practitioners and scholars throughout the country. In 1984 the Academy was chartered by act of the Congress, the first such charter granted by Congress since the charter for the National Academy of Sciences in 1863.

The panel to study the organization and financing of the National Technical Information Service, which I had the honor to chair, consisted of William Carey, then

the Executive Director, American Association for the Advancement of Science; Alan Dean, former Vice President, U.S. Railway Association and Assistant Secretary for Administration, Department of Transportation; and Dr. Martin Cummings, former director, National Library of Medicine. As a government corporation specialist and later as Assistant Director for Management and Organization of the Bureau of the Budget, I was responsible for implementation of the Government Corporation Control Act of 1945 and for providing advice to the President on the organization and management of executive branch agencies. I am currently a fellow of the National Academy of Public Administration and guest scholar at the Center for the Study of American Government, the Johns Hopkins University.

After assessing several organizational alternatives, the Panel unanimously concluded that the goals established by the Congress for the NTIS could be accomplished most effectively by establishment of a government corporation.

When it enacted the Government Corporation Control Act of 1945, the Congress recognized the need to distinguish between revenue producing and self-sustaining public enterprises and programs financed by taxes. The act was intended to establish consistent treatment and appropriate accountability and control of revenue producing enterprises organized as government corporations and to assure that such enterprises could operate with "reasonable autonomy and flexibility" in carrying out authorized programs.

The Academy panel did not advocate special treatment for NTIS, but equal treatment. NTIS fully meets the established criteria for use of a government corporation: (1) it is revenue producing and self-supporting; (2) it conducts a large number of business transactions with the public; and (3) it is subject to market discipline and requires flexibility to develop its market and respond effectively to market demand. Yet at present NTIS is denied the flexibility accorded comparable Federal enterprises and is compelled to operate under laws and regulations designed for traditional tax financed programs. These laws and regulations hamper operations without providing effective accountability either to the President or the Congress.

The panel identified a number of problems NTIS now faces in carrying out its varied responsibilities. These relate primarily to funding, financial controls, position ceilings, administrative regulations, and buildings management. Each of these problems is discussed in the panel report.

Unlike comparable government activities, the NTIS is not financed by a public enterprise revolving fund. Funding provisions included in the NTIS enabling statute do not adequately define the extent or limits of NTIS' discretion in utilizing its receipts. Questions have been raised about the use of escrow funds to finance operations. There is also no explicit authority to use available funds in its account for capital expenditures.

NTIS maintains a business type budget for its internal use, but its budget is presented to OMB and the Congress in accordance with rules and regulations applicable to agencies financed entirely by appropriated funds. NTIS now has to maintain two systems of accounts—one a cash-based system in compliance with OMB Circular A-34, and the second an accrual-based system to provide a more accurate measure of its financial performance.

The accounts of government corporations are audited by the General Accounting Office or independent accountants in accordance with principles and procedures applicable to commercial corporate transactions. There presently is no specific statutory provision for an independent commercial audit of NTIS or requirement for submission of an audit report to the Congress.

NTIS maintains, on the average, $9 million in its trust fund, but unlike most comparable agencies, it is not authorized to invest the surplus in U.S. government obligations. At present NTIS and its users are, in effect, compelled to subsidize the Treasury, which has interest-free use of the money.

Imposition of inappropriate laws and regulations on the NTIS, such as personnel ceilings, surcharges for space leased by the General Service Administration, and so forth, inevitably impose higher costs on the users of its services without compensating benefits.

Information produced by government sponsored research and reports of this research are a valuable national resource. The panel strongly believed that any measure which would tend to limit access to such information or reduce the availability of reports would not be in the national interest. Accordingly, legislation should be enacted to redefine NTIS' mission and the critical role of the clearinghouse in facilitating technology transfer and assisting in the development of United States industry and the maintenance of a competitive edge in world markets.

The panel recognized that incorporation would not solve all of NTIS' problems. However, restructuring of the NTIS as a government corporation under the direc-

tion and supervision of the Secretary of Commerce would provide the organization structure best adapted to its role and mission. It will enable NTIS to improve services to its customers and to operate in a cost effective and efficient manner without in any way impairing essential accountability to Congress.

Subtitle B of H.R. 4417 is wholly consistent with and would carry out the recommendations of the Academy's panel. With one exception, the provisions of section 18(d)(8) H.R. 4417 conform to those generally found in government corporation charters and recommended for corporations in the National Academy's 1981 report on government corporations. I suggest that the provision of section 18(d)(8) H.R. 4417 prohibiting the corporation from entering into contracts for the purpose of obtaining funds or other financial instruments be deleted. The corporation is limited by section 18(d)(11) to borrowing money "only" from the Federal Financing Bank. The language of section 18(d)(8) could be construed as preventing the corporation from entering into contracts for the sale of goods and services. With the deletion of this provision, the enactment of Subtitle B of H.R. 4417 would provide the organizational structure, operating flexibility and financing best calculated to assure the most efficient and businesslike management of the NTIS programs.

I would be pleased to answer any questions by the committee.

Mr. FLORIO. How is that any different than what is capable of being done in authorizing the appropriations committees now under the governmental system that we have?

Mr. SEIDMAN. It is entirely different, because what you are doing is authorizing their use of the money. You are not appropriating the money. They are operating out of their own revenues.

Mr. FLORIO. I see that as less accountability, not more.

Mr. SEIDMAN. It is not less accountability. Look at it overall, what is the interest of the Government in a revenue-producing enterprise, and what ultimately makes the results in costs to the Government and Treasury. If they are operating at a loss, you are interested in the financial results of the operation.

In an appropriated budget, you get a specific amount of money, but you are not looking at how that is offset by revenues. A business-type budget gives to the Congress the complete financial picture of what the revenues are going to be, the anticipated, what the capital expenditure is going to be, information which is normally not provided in the appropriated funds process for a non-business Agency.

Mr. FLORIO. That may very well be a reflection on the appropriations process, but it is not something that is unable to be done and theoretically should be done in the appropriations process, that they should be looking at where revenues come from, where revenues go, how the expenditure is done. Theoretically you are right, you are not supposed to be making a profit necessarily, but it is not unheard of that Agencies in Government derive more in revenues than they expend.

Even if they don't, we want to make sure we have the most cost-effective use of the moneys to fund the programs in a way that is designed to maximize profits.

Mr. SEIDMAN. These are two different systems.

Mr. FLORIO. I accept the fact you pronounced it as two different systems.

Mr. SEIDMAN. The Congress recognized the need in the legislation. The legislation was intended to establish consistency and appropriate accountability and control of revenue-producing enterprises and Government corporations and to assure that such enterprises could act with reasonable authority in carrying out authorized programs.

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In one program, you are saying we are going to provide so much in dollars for this program out of the resources and——

Mr. FLORIO. You put your finger on it with the use of the word autonomy. Autonomy is by definition more autonomous than a less autonomous entity would be. You can't have it both ways.

Mr. SEIDMAN. When I looked at the Alaska Railroad, they had a booming business. They could not print any more tickets. The difference is something like the NTIS or a Government operation which the Congress intends should operate out of its own revenues and is subject to the market discipline.

Mr. FLORIO. I am suggesting dumbness. It is a result of dumbness, not a result necessarily.

Mr. SEIDMAN. I am not saying dumbness. When the government sets itself up in a revenue-producing situation, it sets itself in a position to providing it to anybody willing to pay for it. How much money is spent or what the requirements will become on demand which affects the revenues. You do not have that situation for other types of appropriated fund activities.

The accounting system for normal appropriating funds activities is one to assure they don't expend all their appropriations. You don't have the situation where you are selling the service.

Mr. FLORIO. Dr. Seidman, assume hypothetically that a corporation is established, and they sell materials deriving revenue. The people in charge of the corporation decide they don't want to, for whatever reason, put the revenues into improving the capital operation so as to be able to be more efficient.

They want to put out prettier pamphlets or have a different quality of material. Other than the congressional review process, which would say you are not doing a very good job or you are not achieving our goal, what is it that is going to make that corporate structure entity more accountable than if this is kept in-house at the Department of Commerce?

Mr. SEIDMAN. As far as accountability, there would be no difference, because this would be under the supervision of the Secretary of Commerce and, if in his or her judgment, they could not do it, they would go to the Office of the President, the OMB, the Appropriations Committee would review it.

The same questions would be raised as you would raise with other agencies.

Mr. FLORIO. You are saying there is no net benefit to spinning off to a corporation?

Mr. SEIDMAN. No. I think these are two different issues that you are talking about. You have under the Government Corporation Control Act provided for a business-type budget which is basically different and gives information to the Congress, which is not normally provided.

It assumes a commercial type audit, which is a different type. The normal government is a legality audit, to be sure you follow the law. The other discloses the financial sides of operation. You don't have profit and loss statements, you have two different systems here. We are proposing here not to change accountability, but to bring NTIS under the appropriate system, which the Congress itself has created for this particular type of activity.

Mr. FLORIO. The only difference perhaps is that I just don't have as much confidence as you seem to have for the benefits that flow from structure. I am not sure that is the major consideration that is going to drive us in a better direction than is the case of more accountability with better people in charge of defining how it is that you are going to achieve the goals that I suspect we all agree to.

Mr. SEIDMAN. I disagree with the assumption that I am talking about structure. I am talking about the system. If you want to fly between here and London, you don't do it in a truck, because that is the wrong vehicle. Basically here, it is the wrong vehicle under which NTIS is operating. There is a difference between the two different types of activities. Where one is subject to market discipline, you are selling services, the amount of initial expenditures are going to be weighed against revenues.

There are costs that you do not normally take into account, for example, in a Government agency. You are not setting up rates, selling it. You don't need an accounting system to reflect interest and other cost of operations.

Mr. FLORIO. If rates are set up in inefficient ways by the corporation, the remedy is what?

Mr. SEIDMAN. They would be reviewed by the GAO and be subject to commercial type audit. This would be reported to the Congress, and Congress could take action. They come every year. The assumption that they are outside is that this information goes before the Congress when it reviews the business-type budget.

These financial statements would be available to the committee, and if the committee reviews them with its staff——

Mr. FLORIO. What would be authorized that is not authorized now under the existing system.

Mr. SEIDMAN. Usually what you find in an appropriations act, the Congress puts in in brief language that the following corporation is authorized to make expenditures in accordance with its approved budget program. It is usually said that no more than certain funds will be spent for administrative expenses.

You have to legislate the numbers.

Mr. FLORIO. Under the oversight responsibility that the Congress will have over the corporation, if in fact upon review we have a situation where the rate structure is highly inefficient or perceived that way, the Congress will micromanage by redoing its structure and telling the entity what to do.

Mr. SEIDMAN. You would have the same thing you have today, except now they are not subject to audit.

Mr. FLORIO. I am asking what the result of the audit is. Are we going to say the Congress is going to restrict the rate system, and then tell the corporation what to do?

Mr. SEIDMAN. I would say in the normal process, Mr. Chairman, and this is not the Congress alone, it could be the Executive, there are such things as committee reports. There is some question raised at the moment, but when I was there, we took committee reports seriously.

They would put some indication in there, and ask for action. If they did not, they would direct the Secretary of Commerce to review it and report back.

Mr. FLORIO. Then what occurs?

Mr. SEIDMAN. If they are dissatisfied, they could take action by language in the budget process, the normal way Congress operates.

Mr. FLORIO. That is the way we operate. If you are unhappy with that. I see the administration has made some proposals.

Mr. SEIDMAN. You don't have a budget. It does not come before the budget. There is no budget presentation.

Mr. FLORIO. I don't understand how you can assert that.

Mr. SEIDMAN. It is a trust fund, a permanent appropriation of their revenues.

Mr. FLORIO. As part of the Commerce Department, you are saying this is one entity free from scrutiny and accountability?

Mr. SEIDMAN. It is not free from scrutiny and accountability, but their budget does not request appropriated funds. There is a permanent, indefinite appropriation of their revenues to the NTIS today.

Mr. FLORIO. I notice that the Department of Commerce people are still present, so I would officially request that they respond to that assertion that the appropriation process somehow leaves them free.

Mr. BERINGER. That is what we ask for an appropriation for. However, we come before the House Science and Tech and Senate Commerce Committee every year before the authorization and say we do not need money for this function, and we do need money for X function.

They have the power to review everything. It is an authorization process. Then it goes to the Appropriations Committee.

Mr. SEIDMAN. But they have nothing before the Appropriations Committee to act on. There is not, nor is there any provision as there are here for an annual audit. There is no provision for a commercial type audit for NTIS.

Mr. FLORIO. Dr. Seidman, what modifications would you advocate that we undertake if, for reasons that are wise or unwise, the Congress chooses not to establish a separate corporation? What modification would you, as a result of your expertise, suggest that we undertake to make the existing system more accountable toward the policy goals most people advocate?

Mr. SEIDMAN. First of all, you don't need legally a corporation. You can give all the powers normally given to a government corporation to a corporate entity. You can invest those powers in certain programs from the HUD Department, we made the Secretary a corporation for the purpose of carrying out certain programs.

Mr. FLORIO. My point is, if someone believed or started from the touchstone, believed there was a need for hands-on scrutiny that floats from having this entity in the Department of Commerce, how is it that someone would change the authorizing legislation to achieve more of the types of things that you were talking about short of establishing an entity, whatever we call it, outside of the Department of Commerce?

Mr. SEIDMAN. We strongly urge that this corporation be established in the Department of Commerce. You have a whole series of corporations in the Department of Agriculture. You have the St. Lawrence Seaway Corporation under the Department of Transpor-

tation. We have very few corporations other than Export-Import Bank and TBA.

Overseas, there are a handful of corporations that are outside Departments. There is nothing in the proposal that takes it outside the Department of Commerce. It is just a different type of organizational vehicle. You have different types of organization structures. The fact of calling it a corporation does not make it any different, except for things like sue and be sued and a corporation is a legal entity for legal purposes.

It doesn't change it.

Now, the argument has often been raised that all these powers are normally given to a corporation without creating a corporation. If Congress decided for some reason for the corporation for the Post Office to give it all the attributes of a government corporation, but they did not call it a corporation——

Mr. FLORIO. You are not suggesting this is comparable to the Post Office, are you?

Mr. SEIDMAN. It is comparable to the St. Lawrence Seaway Corporation and comparable to other types of comparable activities within the Government. As I said in my statement, the Academy and the panel and incidentally the Academy does objective studies, we don't often tell people what they want to hear.

But we were pleading for equal treatment. What we are providing in this bill for NTIS is the identical treatment now being accorded within the Government and what was decided by Congress ought to be done in the Government Corporation Control Act were activities of this kind, revenue-producing, self-sustaining and subject to market discipline and differentiated from normal tax-supported activities.

With NTIS, they had an order out of OMB saying you ought to cut printing. That happened to NTIS government-wide.

Mr. FLORIO. Let me develop that for a moment.

I would be the first one to be critical and have been critical of OMB for doing a whole host of things.

Let's assume for a moment that the entity was separate and apart and was not responsive to OMB and chose to do some things that didn't make sense, and you don't have the degree of governmental oversight or responsibility that you currently have.

It is a double-edged sword.

Mr. SEIDMAN. As you probably know, I have lived with this thing for many years and was responsible for carrying out this act and drafting both of them. There are a lot of corporations I was happy to liquidate.

But it does solve problems. It is useful, I think, although not indispensable, to put the proper label on. Because when it is labeled a Government corporation, then people are aware that this distinguishes them. When an order comes from OMB saying I am printing, they say this should not apply to this because it is engaged in a business.

It is a publishing business. If you would cut printing, we are going to cut their revenues. It doesn't make any sense.

Mr. FLORIO. I am not that familiar with the St. Lawrence Seaway. You seem to feel—that is the one you mentioned a couple of times as being close.

Are there others I might be more familiar with?

Mr. SEIDMAN. All of the ones in the Department of Agriculture, all the commodity credit corporations.

Mr. FLORIO. Farmers Home Administration?

Mr. SEIDMAN. That is not a corporation.

You find the Pennsylvania Development Corporation, the Overseas Investment Corporation, the Ex-Im Bank.

Mr. FLORIO. Those are all the types of things that——

Mr. SEIDMAN. The Rural Telephone Bank. There used to be the Panama Canal Company. The Pension Guarantee Corporation.

Mr. FLORIO. If we had a situation, and using the St. Lawrence Seaway, let's assume they are out there doing what they are doing. All of a sudden the entity decided the executives should have bigger cars rather than little cars. OMB doesn't have the same directive capability, directive issuing capability of saying we want to get 25 miles-per-gallon out of the car, this they would have certainly if the officials at the Agency now decided that they wanted to have in their automobile inventory bigger cars rather than little cars?

Mr. SEIDMAN. That would be covered by a separate statute, which unfortunately I had to administer, too.

There were heavy fights. That is covered by general law, which would apply.

Mr. FLORIO. General law applies to——

Mr. SEIDMAN. There are laws governing the allocation of motor vehicles.

Mr. FLORIO. Motor vehicles. Obviously, there aren't general laws as to the allocations of all of the things, you know, we are putting these folks in charge and putting them out there.

Mr. SEIDMAN. You will note in the legislation that will be specifically applicable, the corporation would be specifically subject to those laws of wholly-owned government administrations. All of these laws would apply to the corporation.

What would not apply would be those provisions of the Budget and Accounting Act which are not suitable. Basically, the difference is the method of funding, and the financing is different.

Budgeting and accounting are basically different, which are important here, which have caused the problem actually for NTIS.

Today there is no specific legal authority for funding at all.

Mr. FLORIO. If we change that and say there is no prohibition. There is explicit authorization to use revenues that come in for capital reinvestment. Does that go a long way to resolve the problem that seems to be at one point the heart of what the dilemma was and which seems to be the reason for the bonding authority that is being advocated for this independent entity?

Mr. SEIDMAN. I think there are two different issues here, and I think there is a difference in level. I think you are right. Some things I give higher priority to than others.

The first thing is you should have expressive authority to set up a public enterprise fund and authorize the use of that fund. I would say it ought to be under the Federal corporation. And certainly as far as any surplus funds available, and that they ought to have the authority, as any other trust account, to invest that in Government

obligations which we would run some $69 billion of our Federal funds invested in Federal agency trust accounts.

So the users of the service have the benefit of that. That is one of the essential criteria.

Then you have the problem of capital expenditures and improvement, which is somewhat different, and cash flow problems. Normally a business does need some borrowing authority. The cash doesn't always come in.

As far as capital improvement, the best thing is to have them borrow it and pay the——

Mr. FLORIO. The borrowing authority we are giving to this corporation is not private borrowing.

Mr. SEIDMAN. No. They have to repay the capital expenditure which has made the borrowing out of their revenues. That becomes a plus.

You would pay for that over the economic life of that particular capital investment.

Mr. FLORIO. Isn't that the same thing we do if we decided, through the appropriation process we wanted to allocate X amount of dollars to re-tool. That would be paid off over the life of the project.

Mr. SEIDMAN. The users won't necessarily pay for that. That would not be a direct obligation under normal agency practice, when the funds are appropriated, the capital investment, by the Government, it is not a charge made to the user of that service. Then you run into—of course, the problem today, that gets them to the overall accounts under Gramm-Rudman, which is the difficulty of getting capital appropriations anyway.

You avoid that problem of getting capital appropriations when you go to borrow it, which it is made clear this is going to be paid for by the users of the services and not the taxpayer.

You appropriate the money and are not sure who is going to pay for it.

Mr. FLORIO. If Congress authorized another contract with your institute and said we have made the decision that we are not going to go to a corporate form, and we would like your academy to come back and suggest to us how we can make the existing system more responsive to the goals that we have all signed onto here. What are the types of things that you think the academy would recommend to improve the existing system?

Mr. SEIDMAN. I would say highest priority first would be providing for a revolving fund under a public enterprise fund, which is a standard practice. That is the way these things are classified.

Public enterprise fund, this is the normal thing.

Now in the present law, they have a very peculiar language. I guess they were using the Bureau of Standards revolving fund initially. They can use some other fund in the Department of Commerce.

It is not even clear as to what funding authority is.

Mr. FLORIO. This revolving fund concept, are we talking about a trust fund?

Mr. SEIDMAN. It is not really a trust fund. It is an operating fund where the revenues go in, and they use the funds for financing the activities of the NTIS.

Mr. FLORIO. That would be one of the suggestions you would make.

Mr. SEIDMAN. I would then provide there ought to be an annual audit. GAO sometimes isn't making annual audits anymore. But I would want an annual commercial-type audit by the GAO.

Now they make them every 3 years. I would write that provision—that is helpful to the management of NTIS.

Having the annual audit benefits them as well as the Congress. I think it is helpful to have that.

Authority for borrowing, as any normal business, to certainly cover cash flow, and within approval by the Congress, capital investment. If they are borrowing, it should be subject to an approval process. They ought to have—for investment and capital expansion and development with approval, which would be under the Government Corporation Control Act, if this was expressly written in it, I would have no problem that if they were to borrow this, it should be subject to the approval by the Congress in the normal process before they go ahead with it.

Congress ought to review any major capital investment. Sometimes they don't.

Some of the things I don't think are as important for a normal corporation. I think I would provide an advisory committee set up to advise in the administration, which includes people who are expert in the field. Two, include some of the people who are users of the service and others who ought to have some voice in looking at rate structure and commenting on what is provided in the bill.

Mr. FLORIO. Mr. Seidman, what is your thoughts about—you used the word "autonomy" before, which is obviously appropriate. What is your thought as to the competing discussion points now taking place between a fixed 5 or 6-year term versus someone that changes at the discretion of administrations?

Mr. SEIDMAN. Let me give my reasoning on that, which I think over the years has changed.

First of all, I think there is a legal point to raise when this question came up. Whether or not a term is provided under this Myer's case doctrine, any official appointed by the President is removable. Even providing a 6-year term does not mean they are not removable.

Mr. FLORIO. You are not talking about the Federal Trade Commission?

Mr. SEIDMAN. No. That is the one distinction where the court has held in the Humphrey's case to distinguish between those performing quasi-judicial or quasi-legislative.

In the Myer's case, the power to remove was involved. The presumption here is to distinguish certain types of positions, even though they are presidential, but they basically should be professional positions, and partisan consideration should not be primary in making appointments.

Providing a 6-year term creates at least a presumption that this person ought to serve as long as they are doing a good job. I think we would want somebody who would be a good Democrat or Republican, which should be irrelevant here, but knows how to run the service.

Mr. FLORIO. You couldn't appoint somebody for a 6-year term?

Mr. SEIDMAN. You could. But that is not regardless of President's removal. This was held, they did it with the Chairman of the Civil Service Commission.

Mr. FLORIO. Not removed necessarily for cause?

Mr. SEIDMAN. No. This creates a presumption, with the practical fact as you all know, if somebody is in a 6-year term, Presidents don't usually like to fire people. It requires an affirmative, to ask for their resignation.

Mr. FLORIO. Do you have doubts if this bill was passed into law today and there was someone, Mr. Miller resigned from OMB and he was appointed as the head of this entity between now and next January, that presuming President Dukakis was there, I don't think it is realistic to expect that that would be required to be retained.

Mr. SEIDMAN. I would say that, I am assuming in present circumstances I would doubt Mr. Miller would be confirmed by the Senate.

Under the bill as written it has to go to Senate confirmation. If they don't act, I don't think at this stage things go through very fast in appointments that go up near the end.

The provision of this bill is the President of NTIS would continue to be the administrator of the corporation until such time a successor is appointed and confirmed by the Senate.

The one case where we move to a longer term is the administrator of the St. Lawrence Seaway Development Corporation.

He served even when administrations didn't change. It used to be that there were certain conditions. As presidential appointees, they were not considered to be ones that automatically changed when administrations changed, whether it was head of Social Security Administration or the Bureau of Prisons or Park Service, which are basically technical professional types of positions.

Again, this is not a critical item. It does not—I would say this is certainly not in our mind a major issue.

Mr. FLORIO. Let me express the committee's appreciation to both of you for your help today. We will feel no inhibitions about reaching out to you for your advice.

Mr. SEIDMAN. Do you want a copy of our report?

Mr. FLORIO. We would be very pleased to receive that. The record will be kept open for 48 ours. Thank you very much.

[Whereupon, at 2 p.m. the hearing was adjourned.]

[The following documents were received for the record:]

Association of Research Libraries
1527 New Hampshire Avenue, N.W. Washington, D.C. 20036 (202) 232-2466

DUANE E. WEBSTER
Executive Director

July 5, 1988

The Honorable James J. Florio, Chairman
Subcommittee on Commerce, Consumer Protection,
and Competitiveness
Room 151, House Annex 2
300 D Street, S.W.
Washington, D.C. 20515

Dear Mr. Chairman:

This letter concerns the National Technical Information Service. We request that it and the enclosed material be made part of the record of the Subcommittee consideration of H.R. 4417.

The Association of Research Libraries (ARL) is an organization of major research libraries. ARL member libraries support a role for the federal government in making the results of scientific and technical research and development readily available to business and industry, and to the general public. NTIS now performs a valuable clearinghouse function essential for the effective transfer of scientific and technical information. Vital functions of NTIS are:

- continued availability, free of any copyright restrictions, of federally funded reports;
- permanent, archival availability of scientific and technical reports,
- a comprehensive and centralized source of timely identification and description of federally supported scientific and technical reports, and the continued availability of this bibliographic information in the Depository Library Program; and
- a centralized source for the sale of such reports at reasonable prices.

ARL has repeatedly gone on record in opposition to privatization of NTIS whether the means be selling or contracting out these essential functions. The details of our position are included in the enclosed letters and statements that span the last two years.

H.R. 4417 converts NTIS into a government corporation and explicitly acknowledges that these clearinghouse functions are appropriate and necessary government functions. We urge that you support H.R. 4417 and remove any ambiguity that Congress considers these to be crucial functions that must be retained and modernized within the Federal Government.

Sincerely,

Duane E. Webster
Executive Director

Association of Research Libraries
1527 New Hampshire Avenue, N.W. Washington, D.C. 20036 (202) 232-2466

SHIRLEY ECHELMAN
Executive Director

June 10, 1986

Dr. D. Bruce Merrifield
Assistant Secretary for Productivity, Technology, and Innovation
c/o Joseph Clark
Room 4824
U.S. Department of Commerce
Washington, D.C. 20230

Dear Dr. Merrifield:

This letter is sent in opposition to any privatization of the National Technical Information Service that would result in loss of vital clearinghouse functions or relinquishment of government responsibility for the timely collection, description, and announcement of scientific and technical information. It is submitted on behalf of the 118 academic and other research libraries that are members of the Association of Research Libraries (ARL). A list of the members of ARL is enclosed.

NTIS was established in response to a need for a national clearinghouse for scientific and technical information including but not limited to the results of federally funded research and development. There are features of NTIS that are essential for the effective transfer of scientific and technical information and that must not be sacrificed in order to entice private sector interest in performing NTIS responsibilities. These vital functions are:

- continued availability, free of any copyright restrictions, of federally funded reports;
- permanent availability of scientific and technical reports;
- a comprehensive and centralized source for timely identification and description of federally supported scientific and technical reports and the continued availability of this bibliographic information in the Depository Library Program; and,
- a centralized source for the sale of such reports at reasonable prices.

Any alternative to the current NTIS operation must preserve these functions.

After carefully considering the issues raised by the proposal to privatize NTIS (comments on each issue identified in the Federal Register announcement are appended to this letter), we conclude it is unrealistic to expect a private organization to carry out NTIS clearinghouse responsibilities without loss of one or more of the elements identified above as essential. ARL opposes total privatization of NTIS as we do not see how such action could result in the transfer of scientific and technical information to the scientific and academic communities in as effective and equitable a manner as is now provided by NTIS as a public agency. Nor do we see how the current critical services could be improved upon if performed by the private sector without a substantial increase in prices charged for reports and services.

In FY 1985 the federal government spent $47 billion in support of research and development. Reports of the results of this investment is a critical part of the research process and NTIS provides an economical and effective clearinghouse for such information. We support NTIS as a continuing Federal Government function because it promotes national productivity, technology, and innovation through operation of a comprehensive clearinghouse that provides permanent, open, and equitable access to research reports, software, and databases from Federal agencies, their contractors, state and local government, academic institutions, professional associations, and foreign sources. As you study the privatization alternatives open to the Department of Commerce, we urge that the following questions be specifically addressed.

Who would benefit from privatization of NTIS? Will those engaged in scientific research (including government researchers and researchers engaged by contract to carry out research on behalf of a government agency) benefit? We suggest that no alternatives be pursued until there is evidence that the change will result in improvements in the transfer of the results of research and development to users.

How would any change in NTIS affect the prices charged for reports now sold by NTIS? Higher prices for NTIS reports would be an unfair burden and in some cases they would present a barrier to access to the reports and services for some users of this information. For example, many libraries purchase and make available all or significant portions of NTIS reports. Should the prices increase as a result of privatization the number of reports purchased would have to be reduced. Small businesses -- generally acknowledged as one of the most effective environments for innovation in the country -- represent the largest segment of the NTIS customer base. They would be adversely affected by higher prices both as direct purchasers of reports from NTIS and as users of libraries if those collections were reduced due to escalating prices. Privatization alternatives that increase prices would force reductions in library collections and eliminate avenues of access to reports in the NTIS collection and would place a greater burden on users forced to pay a higher price for the reports.

How would any change in NTIS influence ongoing federal responsibility and accountability for the coordination and dissemination of the results of federally supported research? How would a change affect other government agencies and organizations engaged in generating, funding, or monitoring STI? NTIS is one component of a network of information transfer activity and a change in it would have a profound impact on other organizations. At present, NTIS functions as a coordinating agency for the description and announcement of reports. NTIS provides an effective, cooperative exchange of indexing and abstracting information that minimizes costs to the government while ensuring that the information is widely available in a timey fashion. Such indexing and abstracting services are necesssary to alert users to recently released research reports. A current and comprehensive database describing research reports reduces the opportunity for duplication of research effort and contributes to the foundation for future research. The permanent availability of reports in the NTIS system is critical as it assures users that the results of research will continue to be made available. It also saves many federal agencies the expense of maintaining document inventories of their own reports. A privatized clearinghouse would lead to decentralization and fragmentation of such information and increase the difficulty of learning with any degree of certainty what work has previously been conducted in any field of interest. If omissions from the NTIS database are discovered, the clearinghouse policy now is to add this information. Would a privatized NTIS be willing to maintain this practice that seeks to achieve comprehensiveness? How would the forces of the market place be balanced against the requirement for a comprehensive clearinghouse?

How would any change in NTIS affect continued access to scientific and technical information via the Depository Library Program? The Congressional Depository Library Program serves to make collections of government documents available to people across the country. Many libraries receive publications of NTIS, such as Government Reports Announcements and Indexes, through the Depository Library Program and serve as convenient locations for thousands of people to use these publications and gain access to the collections and services of NTIS. Continued availability of GRA&I, as well as other NTIS publications, in the Depository Library Program is an essential feature that must be preserved in any privatization alternative.

How would any change in NTIS impose restrictions on access to or control over public information? The Federal Register announcement raised the possibility of providing copyright on federal reports to give a private firm the incentive to assume dissemination responsibilities. The announcement also indicates that a prohibition on dissemination by primary or source agency is under consideration. We are unequivocably opposed to either of these two options. Copyright is a private priviledge that should not be extended to public information. It gives inappropriate control of a public good to a private entity. Restrictions on agencies to disseminate the results of research it has conducted or contracted for would inhibit the ability of an agency to fulfill its mission and give inappropriate monopoly control to NTIS whether it operates as a public or a private organization.

Would any proposed change result in improved service for users? We urge that no privatization alternative be pursued unless there is evidence that the change will result in improvements in the overall delivery of scientific and technical information.

We would like to conclude with a word of appreciation for the opportunity to comment upon your study. Any change in this critical Federal clearinghouse deserves thoughtful analysis of all affected parties. We commend you for making this an open process.

Sincerely,

Shirley Echelman

Shirley Echelman
Executive Director

Attachments: ARL Comments on Key Issues Raised by NTIS Privatization Study
List of ARL Member Libraries

STATEMENT OF

JOHN SHATTUCK
VICE PRESIDENT FOR GOVERNMENT, COMMUNITY AND PUBLIC AFFAIRS
HARVARD UNIVERSITY

ON BEHALF OF THE

ASSOCIATION OF AMERICAN UNIVERSITIES

AND THE

ASSOCIATION OF RESEARCH LIBRARIES

ON

FEDERAL POLICIES RELATING TO THE COLLECTION AND DISSEMINATION OF SCIENTIFIC AND TECHNICAL INFORMATION

BEFORE THE

HOUSE SUBCOMMITTEE ON SCIENCE, RESEARCH AND TECHNOLOGY

JULY 14, 1987

I. INTRODUCTION

Thank you for the opportunity to appear before you to discuss federal policies relating to the collection and dissemination of scientific and technical information. I appear on behalf of the Association of American Universities and the Association of Research Libraries. The Association of American Universities is an organization of 56 research universities with preeminent programs of research and graduate and professional education. The Association of Research Libraries is an organization of 118 of the largest academic and other research libraries in the United States.

As an academic administrator, teacher and civil liberties lawyer, I have spent much of my professional life dealing with issues that concern the reach of the First Amendment -- what it protects, what it requires, what it means, what it doesn't mean. From that perspective, a hearing like this addresses one of our most important constitutional principles: because the government's role in promoting the free flow of information is at the core of our tradition of freedom of speech. The aggregate impact of government information policies can profoundly affect our capacity to function effectively as a democracy and our capacity to maintain a vigorous, competitive science and technology enterprise.

I would like to discuss government policies relating to scientific and technical information in terms of recent trends that have had the effect of reducing the collection and communication of such information. I will discuss these trends first in terms of their impact on traditional First Amendment values.

II. FEDERAL INFORMATION POLICY AND THE FIRST AMENDMENT

Freedom of thought, speech and of the press are all essential to a functioning democracy, and to the expression and growth of individuals and of groups in the larger society. So compelling are these principles that under traditional First Amendment doctrine only an overwhelming danger can justify a prior restraint on communication. The theory, of course, is that the remedy for dangerous speech is more speech, not restriction of speech, and that sunlight is the best disinfectant for bad ideas.

Until quite recently the First Amendment made room for only two limits that the government could impose on the free flow of information. In the case of information controlled by the government, sensitive data could be classified in the interests of national security. In the case of information not controlled by the government, publication could be restricted only in the most extraordinary circumstances, usually involving military action, such as information about the sailing dates of troopships or plans for battle.

These principles may seem anachronistic at a time when foreign spies are less interested in the sailing date of a troopship than they

are in the information base of an industrial technology. But the concept of free and open communication is more important than ever in a world where information and knowledge are the most important resources we have. The question is, how can the government best protect these valuable information resources? Putting the question more starkly, can we promote the growth of information and knowledge on the one hand, while restricting their communication on the other?

In recent years this question has created substantial difficulties for traditional First Amendment principles.

In policy terms, we have seen increasing government management of scientific and technical information. In legal terms, we have an expanding law of prior restraint and a growing system of classified information. In academic terms, we can observe a reduction of scholarly exchanges and a restriction on the conduct of open research. And in human terms, we can take note of the chilling effect that communication restrictions can have on personal and intellectual relationships among scientists.

Why are we faced with these challenges to traditional First Amendment principles in the area of science and technology? One reason is that scientific information is different from other kinds of information protected by the First Amendment. Science can create things that are inherently dangerous, like weapons systems. Technology has a clear and immediate economic utility and is therefore more like a commodity than an idea. Scientific or technological breakthroughs are often produced with the direct involvement of government as a sponsor of research. And finally, technical data is different from other kinds of communication because even in its most pristine form, a scientific discovery is likely to be closer today than it would have been a decade ago to the stage of practical application.

Each of these characteristics of science and technology has been used in recent years to justify creating a wide range of federal regulatory regimes that are anathema to traditional First Amendment principles.

At the center of these regimes is a theory -- a theory that is threatening to transform the way we look at scientific and technical data and perhaps other kinds of information as well. The theory, simply stated, is that certain information is inherently dangerous and must be restricted by the government -- even if the government doesn't own or control it, even if it is already publicly available, even if it is the product of a private discovery, and even if it is not by itself likely to cause any damage.

This is what is known as the "mosaic theory" of information. Its origins can be traced to what I call the paradox of the H-Bomb Design. This paradox involves the availability today of extensive public data-bases and sophisticated search techniques that can be used to piece together bits of innocuous unclassified information to produce an aggregate product that may be very dangerous -- like the

H-Bomb design. That is exactly what was done by a writer for Progressive Magazine in 1979. When the government went to court to try to stop publication of the Progressive it could not get an injunction because all the information in the article had been obtained from open scientific documents.

What we have as a result of this paradox is the development of an increasingly restrictive federal policy toward the communication of scientific and technical information. This policy includes a much broader classification system; an extensive system of export controls on many categories of technical information; proposed restrictions on "sensitive unclassified" data; and new limitations on the kinds of communications that scientists can have among themselves.

The narrow and benign view of these policy developments is that the new restrictions require only a "minor adjustment" of the First Amendment to fit the conditions of contemporary science and technology. But there are a great many difficulties in establishing narrow definitions of what information can be restricted, and we are learning that the end result of broadly restrictive policies is likely to be more damaging to our national interests than the evils they are intended to cure.

III. PRACTICAL EFFECTS OF RESTRICTING THE COMMUNICATION OF SCIENCE AND TECHNOLOGY

A review of some of the practical effects of recent federal policies to restrict the communication of science and technology clearly demonstrates the danger in the current trend.

One effect can be observed in scientific conferences. Traditionally the best forum for exchanging scientific and technical information, scientific conferences have been negatively effected by government information policy during the last few years. The best known examples are two photo-optics conferences in 1982 and 1985 sponsored by the Society of Photo Optical Instrumentation Engineers. 150 of approximately 900 unclassified papers in the two conferences had to be withdrawn at the last minute as a result of Department of Defense warnings that they might violate export control regulations.

Protest by scientific organizations led to two clarifying moves by the federal government, neither of which went to the heart of the problem. The first was the issuance of a National Security Decision Directive in September 1985, exempting unclassified basic research from restriction, with one significant caveat: "except as provided in applicable U.S. statutes." One such statute is the Export Control Act, which authorizes restrictions on the export of "technological data". A second clarifying move was the issuance by DoD of a rule in February 1986 establishing procedures "for consideration of national security in the dissemination of scientific and technical information at conferences and meetings."

Not much changed following the promulgation of these two rules.

In June 1986, for example, the Linear Accelerator Association held its annual conference and 13 unclassified papers had to be submitted for clearance 6 weeks in advance. On the eve of the conference DoD refused to approve them because of the Export Control Act; an urgent appeal to the Secretary of Defense cleared 10; 3 were left out entirely.

A second effect of the restrictive information policies can be seen in the reduced amount of contact and collaboration between U.S. and foreign scientists. In order to avoid the kinds of problems the photo-optical engineers had experienced, some scientific and technical societies have informally barred foreign scientists from attending their meetings. These include such prestigious associations as the Society of Manufacturing Engineers, the American Ceramics Society and the Society for the Advancement of Material and Process Engineering.

Classrooms are another area where U.S. scientists must be careful about foreign contacts. For example, a materials science course offered at UCLA in 1984 on "Metal Matrix Composites" had to be restricted to U.S. citizens because it involved unclassified technical data appearing on an export control list. Another example was an effort by the Department of State in 1981 to get universities to report on any campus contacts between U.S. citizens and Chinese exchange students.

A third area where U.S. scientists are having increasing difficulty in collaborating with their foreign counterparts is the area of instrumentation and equipment. One prominent example involves supercomputers -- the next generation of computer technology. Here the government is not trying to restrict access to information, but only access to a highly advanced computational capacity. For the last two years there has been a debate inside and outside the government over whether universities should be required to exclude Communist-country students and faculty members from supercomputer facilities.

A particularly troublesome aspect of the restricted contact between U.S. and foreign scientists is the authority that the State Department has under current law to bar foreigners from visiting the U.S. on the basis of their ideological or political backgrounds. In recent years this authority, which dates back to a statute passed by Congress at the height of the McCarthy Era, has been used to exclude some 800 to 900 foreign visitors each year based on their associations with foreign political organizations that appear on a State Department black list.

Beyond these restrictions on contacts between U.S. and foreign scientists, we are beginning to see general categories of research designated as inherently sensitive and therefore subject to government control. A prominent example is cryptography: since 1981 this field has been affected by a National Security Agency designation as sensitive; most cryptologists now routinely submit their work to NSA for prepublication reviews.

Nuclear energy is another scientific field that is increasingly secret. In 1981 Congress amended the Atomic Energy Act to authorize the Secretary of Energy to regulate "the unauthorized dissemination of unclassified nuclear information". Although the regulations that have been issued are reasonably narrow, the area of nuclear research is clearly affected.

Beyond these specific areas of science research, virtually all government-sponsored research is potentially affected by the new climate of restricted scientific communcation. For a long time many federal research contracts have contained prepublication review clauses. These clauses are theoretically available to limit the dissemination of government-sponsored research results, but they have rarely been used for such purposes until recently. By far the fastest growing category of scientific and technical information now restricted by contract is the research conducted under the Pentagon's so-called "black budget" for military research and development, about which virtually nothing is made public and which increased last year by 16% to $22 billion.

Another practical effect of the new climate of restricted communication involves a redefinition of what constitutes espionage against the United States. With all the furor about increased spying by U.S. citizens, little attention has been paid to the way our espionage laws are now being interpreted by both the executive branch and the federal courts. This broad interpretation has had little effect on cases of genuine espionage, but may have a serious impact on scientific and technical publications in the U.S. According to the government's position, which has been accepted by at least one court, a person is guilty of espionage if he publishes information that he has reason to believe the government intends to keep secret, even if he has no intention to damage the national security and no damage actually occurs. This interpretation is somewhat like the British Official Secrets Act, which makes a person strictly liable for communicating any government secret.

A final area I want to mention in this brief review of the practical effects of restricting the communication of science and technology involves scientific and technical information in electronic data bases. This is by far the largest category of potentially restricted information, because it covers virtually all commercial, academic and governmental computerized information systems. The theory behind the need to control this information, of course, is once again the theory of the "information mosaic" — bits and pieces of seemingly harmless data that can be assembled through sophisticated electronic searching in such a way as to be damaging in the aggregate.

Most of the attention in this area has been focused on a National Security Council Directive promulgated last fall by the Admiral Poindexter, the President's former National Security Advisor. The Poindexter Directive sought to restrict not only unclassified information affecting national security interests, but also any computerized information that could affect "other government interests, including but not limited to economic, financial,

industrial, agricultural, technological, and law enforcement information."

Poindexter's directive raised the specter of U.S. intelligence agencies monitoring and regulating virtually all commercial and academic data bases and information exchanges in this country. The directive was withdrawn in April under congressional pressure, but the underlying policy is still in place. The policy is set out in National Security Decision Directive 145, which requires the National Security Agency to develop "a comprehensive and coordinated approach" for all telecommunications and automated information systems, under the theory that "information, even if unclassified in isolation, often can reveal sensitive information when taken in the aggregate." Last month the House passed HR 145, the Computer Security Act of 1987, which transfers responsibility for developing a government-wide computer security program from the National Security Agency to the National Bureau of Standards. The legislation is silent on the issue of whether new categories of restricted information can be introduced as part of the program.

A special target of the restrictive policy for electronic data bases is the federal government's traditional role as a clearinghouse for scientific and technical information. As this Subcommittee is well aware, serious efforts are now underway to "privatize" the National Technical Information Service, which issues 2-1/2 million technical reports every year -- more than any other science publisher in the world. In Section V, I will address in detail the dangers in this approach toward NTIS and the legislative proposals which have been offered to preserve the service as a government entity.

IV. LONG-TERM EFFECTS OF RESTRICTIVE FEDERAL INFORMATION POLICIES

What are the likely long term effects of a federal policy that increasingly restricts the communication of science and technology?

The first and most obvious is that too many restrictions will lead to a stagnation of basic science. We do not have to go further than the Soviet Union for the best example of what can happen. According to the American Physical Society, Soviet solid state electronics and biology are far behind our own because of official restrictions on scientific communication. The Defense Department has reported that in 20 key technologies the U.S. is leading in 14 and is at least tied in 6. More generally, the National Academy of Sciences warned in a report last year that the continued health of U.S. science depends on openness and communication.

A second effect that we are already feeling is the negative impact of all these restrictions on the economy. Another National Academy of Sciences report issued in April of this year indicates that the cost to the U.S. of the current regime of export controls is 188,000 jobs and $9 billion a year. This is so because our own economy depends substantially on foreign expertise. For example, 40% of all PhD engineers entering the work force every year are foreigners

who are vitally needed because of a chronic U.S. shortage of engineers.

One unintended result of export controls is the funnelling of more business to Japan and other competitive nations. According to the NAS Report 38% of U.S. exporting companies have reported losses of sales to foreign competitors because of export controls. Another economic problem is the inability of U.S. investors to get information about new corporate technologies that are covered by export controls.

A third negative effect, ironically, is on our national security itself. Most experts agree that our long-term security needs depend on rapid technological development, which is not possible if broad communication restrictions are in place. It is interesting to note that this is the position of Dr. Edward Teller, who is widely credited with being both a father of the H-Bomb and the father of the Strategic Defense Initiative.

Last but certainly not least, democratic values, freedom of speech, and the openness of our society are all likely to be eroded if we continue down this path.

Let me attempt to pull all these damaging long-term effects together with a very real current illustration of the way scientific communication should work but will not work if federal information policy continues in the direction it is going. On March 18, thousands of physicists from around the world crowded into the ballroom of the New York Hilton to hear the latest developments in the discovery of low-temperature superconductors. Most scientists believe that these new materials will revolutionize a whole range of existing technologies -- from electrical power generation and transmission to computers and telecommunications.

The story began slightly more than a year ago at an IBM lab in Zurich, where two Swiss scientists succeeded in creating a ceramic material that can conduct the flow of electricity without losing energy at very low temperatures. This discovery was published in an international scientific journal, and scientists in Houston, Tokyo and other cities here and abroad began a race to develop a practical method of raising the temperature for superconductors so that the revolutionary new technology could be put to use. As of last month it appeared that the race would be won by a team of physicists from the University of Houston, most of whom are not U.S. citizens.

Only one segment of the industrialized world seems to have been left out in the cold during this extraordinarily fertile year of discovery and communication. Not surprisingly, perhaps, the Warsaw Pact nations have played no part in all of this. No one sought to exclude them, but they are weighted down with travel restrictions, bureaucratic restraints on contacts with foreigners, and a widespread suspicion of telephones and copying machines. Fortunately, our own preoccupation with secrecy seems, in this case at least, not to have gotten in the way of our pursuit of good science -- and we are much better off as a result.

V. LEGISLATIVE PROPOSALS TO ENCOURAGE THE COMMUNICATION OF SCIENCE AND TECHNOLOGY

In reviewing the recent trend in federal executive policy toward restricting the communication of science and technology, it is useful to refer to the work of this Committee in establishing legislative policy in this area. The National Science and Technology Policy, Organization and Priorities Act of 1976 (P.L.94-282), which was drafted by this Committee, provides that the federal government is responsible for:

-- promoting the transfer of scientific and technological information;
-- coordinating and unifying federal scientific and technological information systems; and
-- facilitating the "coupling of institutional scientific research with commercial application of the useful findings of sciences."

With this legislative policy as background, let me comment on two recent bills that have been introduced to alter one aspect of existing federal information resources policy -- HR 2139 to establish the National Technical Information Services as a government corporation, and HR 1615 to establish a government information agency.

You are already familiar with arguments against the Administration's proposal to privatize NTIS. Let me therefore briefly summarize the principal concerns of research universities and libraries of the consequences of privatization:

-- the probable elimination of documents with low sales potential;
-- the probable loss of a permanent, archival collection of older reports;
-- the probable loss of for'gn research reports;
-- increased prices for documents;
-- the establishment of proprietary rights over NTIS products;
-- commercially driven decisions about all collections and services; and
-- increasing pressure to delete "sensitive" but unclassified information.

NTIS was created more than thirty years ago to "make the results of technological research and development readily available to industry and business, and to the general public," so that this information could be used to stimulate economic competitiveness and productivity. The research university and library community believes that NTIS has been performing admirably and that Congress should therefore proceed with caution in enacting substantive changes.

As the Subcommittee examines alternative structures for NTIS, it is essential to consider the impact of each proposal on the current mission and services of this vital agency. The most significant

functions of NTIS that facilitate the effective transfer of scientific and technical information are:

-- the continued availability, free from any copyright restrictions, of federally funded reports;
-- the permanent availability of scientific and technical reports;
-- a comprehensive and centralized source for timely identification and description of federally supported scientific and technical reports and the continued availability of this bibliographic information in the Depository Library Program; and
-- a centralized source for the sale of such reports at reasonable prices.

Although we believe that the Administration's proposal to privatize NTIS would severely cripple the agency, we think that the proposal to establish NTIS as a government corporation holds considerable promise for significantly strengthening the capacity of the service to respond to increased demands for scientific and technological information to meet the challenges of a dynamic and competitive world market. It is worth noting that the general concept of HR 2159 is congruent with the recommendations of a recent report by a panel of the National Academy of Public Administration. A particularly important feature of the bill is that it ensures that the new government corporation would continue to participate in the Government Printing Office Depository Library Program upon which nearly all of our member institutions depend to receive U.S. Government publications.

We have reservations about the creation of a single federal information agency as proposed in HR 1615. We see much merit in what we understand to be the general intent of the legislation -- to provide a coherent set of policies governing federal information resources, with improved Congressional oversight of those policies. We are concerned, however, that in a government as large and complex as ours, with a responsibility to serve a wide array of information users, such centralization of information policy as would be established by HR 1615 might create more problems than it would solve. Apart from the establishment of a new agency, however, there is clearly merit in examining whether the existing mechanism for Congressional oversight of executive branch information policies and practices should be strengthened.

VI. CONCLUSION

Let me conclude by saying that there are mixed signals today about whether the recent trend toward a more restrictive federal information policy is subsiding. Certainly the interest of this Committee in looking at the nature and impact of this trend is significant. In addition, I believe there are some important recent developments that are favorable to a change in policy.

First, the Iran-Contra affair has increased public understanding of the danger of excessive government secrecy and compartmentalised decisionmaking.

Second, the growing national concern about U.S. competitiveness has created strong pressures for an unleashing of science and technology to serve the economy.

Third, after a decade of growing secrecy there is very little evidence that restrictive information policies are achieving their purposes, and there are many other developments, such as the increase of "insider espionage", that are undermining them.

How, then, can strategies be developed for reversing the trend toward more restriction of scientific communication? I have no grand plan to offer, but a simple rule of thumb to suggest: overbearing restrictions on the flow of scientific and technical information can severely hurt the process of discovery, invention, research, and development no matter what one's view of the role of government may be. This proposition has no political label, and that should help to establish its broad appeal.

Thank you for this opportunity to appear before the Subcommittee.

* * * * *

Association of Research Libraries
1527 New Hampshire Avenue, N.W., Washington, D.C. 20036 (202) 232-2466

Statement on Behalf of the Association of Research Libraries

By

James F. Wyatt

Director of Libraries

University of Rochester

Rochester, New York

Before the

Subcommittee on Science, Research and Technology

U.S. House of Representatives

on

The National Technical Information Service

March 4, 1987

Mr. Chairman and Members of the Subcommittee, this will mark the second time this academic year that I have come to Washington specifically to address a proposal to privatize the National Technical Information Service (NTIS). While I look upon these opportunities as privileges, it is strikingly odd that we find ourselves having to write and speak repeatedly against a proposal that just doesn't make sense. And I might add, a proposal that we have yet to hear anyone defend.

ARL and many, many others wrote the Commerce Department last May and June pointing out why the proposal to privatize NTIS didn't make sense. (All of these letters were compiled by NTIS and made available as publication PB86-211240.) Many of us attended a public meeting last July 30 to talk about how the proposal didn't make sense. However, in spite of this considerable public opposition and in spite of the report of the Commerce Department Task Force that reached the same conclusion, we see in the President's Budget proposal that in 1988 "the private sector will be given the opportunity to operate NTIS on contract."

Since OMB disregards or dismisses the arguments we and others put forth last year, we appeal to Congress to take whatever action is necessary to preserve the features of NTIS that are essential for the effective transfer of scientific and technical information. These vital functions are:

- continued availability, free of any copyright restrictions, of federally funded reports;
- permanent availability of scientific and technical reports;
- a comprehensive and centralized source for timely identification and description of federally supported scientific and technical reports and the continued availability of this bibliographic information in the Depository Library Program; and,
- a centralized source for the sale of such reports at reasonable prices.

Any alternative to the current NTIS operations must preserve these functions. They are too important to the transfer of scientific and technical information to be sacrificed in order to entice private sector interest in performing NTIS responsibilities.

The National Technical Information Service (NTIS) was created within the Commerce Department to "make the results of technological research and development readily available to industry and business, and to the general public," so that this information could be used to stimulate productivity, competitiveness, and economic growth. For more than thirty years NTIS has successfully served those goals. Its services of collection, indexing and abstracting, and publication of research reports have met the needs of businesses, research laboratories, universities, other government agencies, and independent researchers and inventors.

By statute, NTIS is a self-supporting agency. It has not contributed to the climbing budget deficit and privatization of the operation will not contribute to a reduction of the deficit. (In fact, the Commerce Department Task Force report indicates that extensive privatization of NTIS would actually result in a net cost to the government.) Federal budget reduction is not an issue here.

User satisfaction with NTIS is high. This satisfaction is evident in the responses from all kinds of NTIS users to the request for public comment on the proposed privatization. NTIS services and publications are provided quickly, thoroughly, and, we believe, cost-effectively. Many U.S. businesses and all research universities are dependent upon NTIS for research reports, and any disruption in NTIS services would seriously hamper product development and further research.

We foresee no point in the future where the need for NTIS services will diminish. Long-term stability and consistency in operations is therefore another element that should be considered. We have confidence that the Government will still be in business 100 years from now; we are less optimistic about the longevity and stability of any private contractor service. Changes in NTIS service providors cause disruption and should be minimized to prevent interuption of service to users.

We are all concerned about the pressure to privatize NTIS. Those of us in research universities are especially worried that privatization will bring about

- the failure to include documents with low sales potential,
- the loss of a permanent, archival collection of older reports,
- the loss of many foreign research reports,
- increased prices for documents,
- establishment of proprietary rights over NTIS products,
- private self interested influence over the collections and services, and
- pressure to delete so-called "sensitive" information.

In addition, we believe that the Government has an important responsibility in the creation and dissemination of public service information and that a retreat from that role is a disservice to the nation. In this case, the disadvantages of privatization outweigh any advantages and do not serve the public weal.

Loss of low demand reports

While some NTIS reports sell in quantities large enough to return a profit for a commercial vendor, most sell only a few copies and would be considered unprofitable. The removal of those low demand reports from the clearinghouse would be devastating to research in many currently emerging fields. Their loss would be counterproductive,

reducing private sector growth and productivity and inhibiting further research. The value of research reports is not measured in publication profits and number of copies sold, but rather in product development and new research initiatives.

Importance of a Permanent, Archival Collection

The permanent availability of reports in the NTIS system is essential and under no circumstance should this function be allowed to be degraded or dissolved. The research process proceeds by building on the results of previous work. Loss of access to any portion of the results of U.S. research efforts that is currently reflected in the NTIS system would be a step of serious consequences. This permanent availability service also serves other federal agencies and saves the government money as its existence eliminates the need for all but the largest agency to maintain its own document inventory. The collection built by NTIS is unique, of considerable value to the nation, and its continued development and maintenance is a responsibility that must be preserved.

Loss of Foreign Government Agreements

It is expected that of the 35 agreements NTIS has with foreign governments to provide reports to NTIS, few would continue to do so under privatization. This would be a major loss to U.S. information consumers, and probably not replaceable by any other organization or program. The loss of access to foreign research reports would hamper American efforts to reestablish strong, competitive positions in international markets.

Price Increases

It is unrealistic to expect that a privatized NTIS would not result in increased prices for NTIS reports and services. The profits are just not there unless the low sales items, archival documents, and other important functions are dropped. Business Week

recently described the skyrocketing prices charged for government information when companies have been awarded a dissemination monopoly ("Computerizing Uncle Sam's Data: Oh How the Public is Paying," Business Week, December 15, 1986, pp. 102 - 103).

Higher prices place yet another inhibition on both further research and productivity. The universities and small businesses of the country cannot easily increase budgets to cover additional costs. The result will be the purchase and dissemination of fewer documents, a direct contradiction of the purpose of NTIS.

Proprietary Rights to Public Information

By allowing private sector organizations to assume the information dissemination functions of a government agency, the contractor gains a proprietary right to the information. When government contracts out a function that involves the collection or creation of information, that information is owned by the contractor. Such a situation arose in a 1980 Supreme Court case (Forsham vs. Harris 445 US 169) concerning use of the Freedom of Information Act (FOIA). The court held that the contractor owned the information even though the activities which generated the information were statutory duties of the government. The result was that the information was not available under the FOIA. Operating NTIS under contract could result in allowing a private firm to exercise proprietary rights over public domain information.

The Congressional Depository Library Program administered by the Government Printing Office serves to assure that there are no-fee sources of government information available in each Congressional district. Many depository libraries receive publications of NTIS, such as Government Reports Announcements & Indexes, through the Depository Library Program and serve as convenient locations for thousands of people to use these publications and gain access to the collections and services of

NTIS. Continued availability of GRA & I, as well as other NTIS publications, in the Depository Program is an essential feature and must be preserved.

In light of the court decision referred to above, we question if privatized NTIS publications, like GRA & I, would be defined as government publications. If not, they would cease to be made available to depository libraries and many, many channels of access would be eliminated. Access to the NTIS database would be restricted to those libraries and users that could afford to pay the contractor price for access.

Private Influence over NTIS Products and Services

Proprietary influence could also extend into decisions concerning the scope of the collection and the timeliness of delivery of services. Placing monopoly control of a large collection of scientific and technical information within the jurisdiction of any private entity that could be susceptible to self interested influences is not in the best interest of the country. It is only in the best interest of the contractor and affiliated firms.

"Sensitive" Information in NTIS

We understand that foreign access to the NTIS database is a matter of considerable concern to the Defense Department and other intelligence agencies. In recent years new policies and procedures have been established to improve computer security and control over unclassified but "sensitive" government information. In addition, representatives of the Department of Defense, Central Intelligence Agency, and the Federal Bureau of Investigation have visited private information companies inquiring about: a list of the users of their online databases, addresses of their users, and installation of monitors on the communication systems to track usage. At least one academic library, the State University of New York at Buffalo, was served with a

subpoena by the FBI to divulge information about a database search performed for a foreign student.

Mead Data Corporation, one of the private firms that received repeated visits from government representatives, has announced that as a result of the visits they decided to exclude the NTIS database from their service. This is disturbing news as it eliminates an important channel of access to this information. While there are alternative ways users may gain access to reports in the clearinghouse, dimunition of channels is to be avoided especially when it comes as a result of government pressure.

ARL is committed to the principle that unrestricted access to the dissemination of ideas is fundamental to a democratic society. We also recognize that legitimate principles of national security exist side-by-side with the principle of unrestricted access and conclude that unrestricted access must take precedence unless a clear and public case can be made for restricting access in specific instances or to a clearly defined body of information.

To our knowledge no public case has been made to defend the placement of any restrictions on access to information in unclassified databases and we encourage the Subcommittee to seek further clarification of the intentions of the Defense Department especially in regard to the NTIS database.

It is possible that the plans of the Defense Department to control access to the NTIS database have not been coordinated with the plans of OMB to privatize the operation. However, it is also possible that the two initiatives operate in tandem. Planned or not, the pressures from both Defense and OMB could lead to large amounts of unclassified information excluded from the database and therefore unavailable to

everyone because it is too "sensitive" to be outside the hands of the government.

In fact, privatization raises serious questions of foreign influence over the clearinghouse since many information sector firms are owned and controlled by foreign corporations. Under present U.S. contracting procedures, there is nothing to prevent a foreign owned firm from bidding on the contract to operate NTIS. Also, there is nothing to prevent a foreign takeover of a U.S. firm that has already won a contract to operate a federal information operation.

Failure to Realize Privatization Goals

We believe that privatization of NTIS does not substantively accomplish any privatization goals. As noted by the Commerce Department Privatization Task Force, no private contractor has come forward or showed any interest in buying NTIS. In fact, most of the opportunities for private sector information firms to make profits using NTIS materials is in the "value added" area — and those opportunities are present under the current systems. Failure to seize them is due to lack of entrepreneurship, the uncertain rate of profits, their fear of NTIS or some other private firm competition, etc., but is not due to lack of opportunity.

Privatization of NTIS will not stimulate productivity, competitiveness, or growth of American industry and research -- rather it will have the opposite effect. The fact is that NTIS has and does, as presently constituted accomplish those ends more effectively and cost-efficiently than can private sources. It may be possible to add to NTIS operations other services that will enhance its capacity to serve these goals, and that some programs may involve private sector firms as contractors for value-added products. As clients, we would welcome these kinds of products and purchase them as we do other "for profit" services offered by publishers.

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Opposition to Privatization of Government Information Services

As institutions that create information for the benefit of humanity, sometimes in partnership with the Government, and as loyal citizens, we object to the privatization/commercialization of information created with public funds. We believe that such information is in the public domain, should stay there, and be equitably accessible for public use, by individuals, business firms, government agencies, and universities. We in libraries are partners with the Government through NTIS, GPO, and other federal agencies in pursuing the goal of equitable access — one of the most essential to a free society. Privatization of public information strikes a blow against the foundation of this free society and we oppose it vigorously. It is entirely inappropriate to take steps that will lead to restricting this country's citizens' access to their own public information.

ARL believes that privatization of NTIS will not result in the supposed benefits of privatization, but rather will result in limited service at higher costs and the loss of many low volume, archival, and foreign reports. We also anticipate the real possibility of loss of public domain information and undue private influence over scientific and technical information. American industry and research will be poorly served and our economic development hampered. The American public will see information created with its tax dollars given exclusively to private sector firms for resale at profit-making levels.

Future of NTIS

NTIS should continue to collect, publish, and archive research reports for the benefit of the country. It should continue to provide and to increase opportunities for private sector firms to develop value-added services and products to make public information more accessible to the public. It should continue to be self-supporting. It

should be innovative in its methods and comprehensive in its collection of documents. While not organizationally related, NTIS and GPO should cooperate whenever it is advantageous to the public. NTIS should also seek cooperative ventures with organizations such as research libraries, and should have some structure, such as an advisory committee, to collect in a regular and formal manner, feedback and information on operations, services, publications, formats, and the like. NTIS should continue and expand its capacity to collect, translate and publish foreign research reports.

If Congress concludes it is necessary to make an in depth assessment of alternatives to the present structure of NTIS, ARL recommends the establishment of a Congressional task force or advisory group to carry out a public review of how the results of federally funded research and development reports could most effectively be transferred from government to users. All stakeholders need to participate. The Association of Research Libraries and other groups will, I am certain, be cooperative and active participants in such a review.

Thank you for this opportunity to appear here today.

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Membership of the Association of Research Libraries

National Libraries: Canada Institute for Scientific and Technical Information
Library of Congress
National Agricultural Library
National Library of Canada
National Library of Medicine

Special Libraries: Center for Research Libraries
Linda Hall Library
Smithsonian Institution Libraries

Public Libraries: Boston Public Library
New York Public Library
New York State Library

University Libraries:

A`abama
Alberta
Arizona
Arizona State
Boston
Brigham Young
British Columbia
Brown
Calif., Berkeley
Calif., Davis
Calif., Irvine
Calif., Los Angeles
Calif., Riverside
Calif., San Diego
Calif., Santa Barbara
Case Western Reserve
Chicago
Cincinnati
Colorado
Colorado State
Columbia
Connecticut
Cornell
Dartmouth
Delaware
Duke
Emory
Florida
Florida State
Georgetown
Georgia
Georgia Inst. of Tech.
Guelph
Harvard
Hawaii
Houston
Howard
Illinois
Indiana
Iowa
Iowa State
Johns Hopkins
Kansas
Kentucky
Kent State
Laval
Louisiana State
McGill
McMaster
Manitoba
Maryland
Massachusetts
Mass. Inst. of Tech.
Miami
Michigan
Michigan State
Minnesota
Missouri
Nebraska
New Mexico
New York
North Carolina
North Carolina State
Northwestern
Notre Dame
Ohio State
Oklahoma
Oklahoma State
Oregon
Pennsylvania
Pennsylvania State
Pittsburgh
Princeton
Purdue
Queen's
Rice
Rochester
Rutgers
Saskatchewan
South Carolina
Southern California
Southern Illinois
Stanford
SUNY Albany
SUNY Buffalo
SUNY Stony Brook
Syracuse
Temple
Tennessee
Texas
Texas A&M
Toronto
Tulane
Utah
Vanderbilt
Virginia
Virginia Poly.
Washington
Washington State
Washington, St. Louis
Waterloo
Wayne State
Western Ontario
Wisconsin
Yale
York

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James F. Wyatt
Witness for the Association of Research Libraries

James F. Wyatt is Director of Libraries at the University of Rochester in Rochester, New York. Dr. Wyatt's graduate study was at the University of North Carolina and Florida State University. He currently serves as a member of the Board of Governors of the Research Libraries Group, Inc. a partnership of major universities and research institutions in the United States, and as chair of ARL's Government Policies Committee.

The Association of Research Libraries (ARL) comprises the 118 largest academic and other research libraries in the United States and Canada. It is a non-profit organization founded in 1932 to assist member libraries to better meet the ever-increasing demands for their services. A list of ARL member institutions appears on the reverse side of this page.

ARL Comments on Key Issues Raised by NTIS Privatization Study

The following comments address the key issues as identified in the Federal Register notice of April 28, 1986 (pp. 15868 - 15870).

1. Mandatory deposit of reports in a privatized sales program.

A legislative mandate for agencies to place government reports in a privatized sales clearinghouse relinquishes government responsibility "to make the results of technological R&D more readily available," raises questions of inappropriate proprietary influence over the flow of this information, and ignores the impact such an arrangement would have on sales programs of other federal agencies.

2. Acquisition of Foreign Technical Information.

Substitution of private acquisition of foreign technical information for current government-to-government mutual exchange agreement would inevitably lead to increased prices for the reports. This would impose a barrier to the fullest use of the reports within this country and interfere with the flow of scientific information. What would be the consequences of privatization on other nation's willingness to continue participation in bi-lateral and multilateral government agreements to exchange information?

3. Government Acquisition/Private Announcement and Sales.

Division of NTIS functions, leaving acquisition of reports as a responsibility of the government (reimbursed by the private sector) creates a situation where a private organization could exert influence over the material acquired and eliminate information that is not perceived as a "good seller" or is considered not to be in the best interest of the private organization or its parent body. If a private firm decided not to make a report available, there would be no public accountability or review of contract reports. Access to these reports would be lost and citizens would lose the opportunity to provide input regarding how their tax dollars are being spent. A comprehensive and unbiased collection of reports is necessary for the design of future research projects.

4. Permanent Availability of Reports in NTIS System.

The permanent availability of reports in the NTIS system is essential and under no circumstances should this function be allowed to be degraded or dissolved. The research process proceeds by building on the results of previous work. Loss of access to any portion of the results of U.S. research effort that is currently reflected in the NTIS system would be a step of serious consequences. It is doubtful a private firm would take the risk to include reports in a clearinghouse if short term demand is not anticipated; items not clearly "in demand" could be excluded from a privatized clearinghouse. This permanent availability service also serves other federal agencies and saves the government money as its existence eliminates the need for all but the largest agency to maintain its own document inventory. The collection built by NTIS is unique, of considerable value to the nation, and its continued development and maintenance is a responsibility that must be preserved.

5. Copyright of Federal Reports.

The United States Constitution gives Congress the power "To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries." Congress and the courts recognize copyright as a private privilege that bestows rights of exclusive control of the material to the creators of the material. It is awarded to "promote the progress of science" and to encourage contributions to the country's general welfare but is also recognized to be in conflict with public interest and is therefore granted only for a specified and limited number of years. When copyright is allowed, it is given to authors and not to distributors of the material. With few exceptions, Congress has historically maintained that since government information is created or collected at public expense that it is public information that may not be controlled by copyright restrictions. [illegible]stion of this private privilege to reports in the NTIS system would violate the principle of open and unrestricted access to public information by allowing control of public information to be in the hands of a private distributor. ARL is unequivocally opposed to the copyright of federally funded reports.

6. Restrictions on Primary Distribution by Source Agencies.

Restrictions on primary distribution of reports by source agencies would undermine the ability of an agency to fulfill its responsibilities to disseminate information to its primary audience(s) in a timely manner, would establish a monopoly over control of a large segment of scientific and technical information, and place this monopoly within the jurisdiction of a private entity that could be susceptible to influences that are not in the best interest of the country as a whole. We oppose any restrictions on primary distribution by source agencies.

7. Exclusive vs non-exclusive sale of NTIS/Control of Prices.

Exclusive sale of NTIS operations would place inappropriate total control of the information into the hands of a private organization. How could precautions be made to ensure that the company recognizes and observes the mission of a public agency? Ensuring reasonable prices is a major stipulation. In addition, consideration need be given to the prospects of self interested decisions that might influence the timeliness or comprehensiveness of the services provided.

Of particular concern is the possibility, through mergers or acquisition of a U.S. company, of a foreign-owned corporation securing direct or indirect ownership of the private organization performing the service that could result in the transfer of distribution of U.S. Government research results to a foreign-held private corporation. The circumstances could be similar to a situation currently being investigated by Congress: U.S. Government dealings, including Department of Defense procurement contracts, with an Italian firm that is owned in significant part by the Libyan government. Dissemination of scientific and technical information is at least as critical as the procurement of equipment and services for the U.S. military. Control of either in the hands of a militarily hostile nation presents problems of obvious and serious consequences. In the competitive world economic environment every foreign nation becomes a

competitor and the timeliness and availability of scientific and technical information becomes as vital as military superiority. How could the U.S. Government ensure that a private company entrusted with NTIS responsibilities would not be subjected to foreign pressure to exert inappropriate influence and bias over the dissemination of U.S. information to U.S. users?

Non-exclusive sale of NTIS leads to a scattering of the services among different companies. This returns the country to the circumstances that prompted Congress to establish NTIS and defeats the purposes of a central clearinghouse. It is difficult to imagine the prospects for one, let alone more than one private organization willing to offer the full range of NTIS services given the requirements of a comprehensive, permanent collection made available at reasonable prices.

8. One-stop feature.

As noted above, the one-stop feature is of significant value and should be a requirement for any privatization alternative considered. A user should not be forced to try one, then another, then another organization before locating the one that has the report they are seeking. Such fragmentation was the situation prior to NTIS. To eliminate the one-source feature is a significant step backward in terms of service to the users of the information who have come to have a high level confidence in the completeness of NTIS.

9. Effect of NTIS on private organizations and on STI/Changes as a result of privatization.

Private organizations that have been positively influenced by the service of NTIS include many libraries. The clearinghouse has produced a database as well as a set of printed abstracts and indexes that has brought a significantly comprehensive collection of STI reports within reach of people across the country. The clearinghouse has provided tools and services that enable libraries to extend the dissemination of STI to large numbers of users at no or minimal cost to the user. The maintenance of the permanent collection of NTIS reports also has provided an essential service for all users of the service, private as well as public, who discover a need for the results of research conducted in the past.

If NTIS is privatized, there is reason to expect prices for NTIS products and service would increase. This would curtail the acquisition practices of private as well as publicly supported libraries thus reducing the available of this information. In addition, there is the question of continued distribution of Government Reports Announcement and Indexes, as well as other NTIS prepared reports, to depository libraries. If NTIS were privatized, would these service and reports be continued? If continued would they be considered government reports and would they be made available to depository libraries? If NTIS is privatized, would a private for-profit organization be expected to maintain what is acknowledged to be the 'unprofitable' but essential role of caretaker for the retrospective collection?

10. Effect on matters of broad public interest, on rights of citizens to have access to results of Federally funded R&D, and on interests of information industry.

A privatized NTIS that was driven by market demands would eliminate the availability of some reports, increase prices, require taxpayers who supported the initial research to buy back (at a price designed to return a profit) the results of the research, and subject the flow of scientific and technical research results to inappropriate influence by private interests. This would restrict the nation's ability to improve productivity, technology, and innovation in support of national defense, U.S. scientific and technological competitiveness, and a robust national economy. It would inhibit the rights of taxpayers to have access to the results of Federally funded R&D and would also give an unfair business advantage to a few information industry firms over competitors in the information industry who need access to the products and services of NTIS. It would also be disadvantageous to other kinds of businesses especially the small business organizations that constitute 75% of the customers of NTIS. These and other private organizations would face price increases and a less comprehensive collection, all of which would inhibit the private enterprise that NTIS was established to assist. Most devastating would be the inhibitions placed on future research as access to the results of past investments of time and money is thwarted by the dismantling of the NTIS clearinghouse.

Association of Research Libraries
1527 New Hampshire Avenue, N.W. Washington D.C. 20036 (202) 232-2466

January 29, 1987

Mr. Malcolm Baldrige
Secretary of Commerce
5851 Herbert C. Hoover Building
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230

Dear Secretary Baldrige:

This letter concerns the future of the National Technical Information Service (NTIS).

Last summer when the Department solicited comments on an OMB proposal to privatize NTIS, the Association of Research Libraries (ARL) submitted comments in opposition to any form of NTIS privatization that would result in loss of vital clearinghouse functions or relinquishment of government responsibility for the timely collection, description, and announcement of scientific and technical information. ARL is an organization of 118 of the largest academic and other research libraries in the United States and Canada and has a vital interest in the continued availability of the results of federally funded scientific and technical research. A copy of the ARL comments on the proposal to privatize NTIS is enclosed.

ARL also participated in a Commerce Department public forum on July 30 at which we joined representatives of a cross section of the NTIS user community in expressing concerns about privatization of this agency.

Now we learn that OMB has given directions to the Commerce Department to proceed with plans to contract out all or almost all of NTIS operations. We are alarmed at the implications of the directive and we urge you to use the influence of your office to appeal the OMB plan.

There is ample evidence in the comments already on file within the Department of Commerce to indicate that

it is unrealistic to expect that the consequences of wholesale contracting out of NTIS operations would not result in escalating prices for the reports and databases to the public thereby imposing a barrier between a potential user and the collection,

there is doubt about the permanent availability of these reports as the continued presence and performance of a contractor is far less assured than that of the Department of Commerce,

it is questionable that a private contractor would be in as favorable a position to negotiate agreements with other governments (foreign as well as state or local) and with other agencies of the Federal Government to coordinate the dissemination of information that is vital to achieving a robust and competitive economy.

We ask that you make an appeal to OMB to amend the course of action and would appreciate it if you would keep this office informed about further developments. Jaia Barrett, ARL Federal Relations Officer, and I, welcome opportunities to speak with you or your staff about the potential problems associated with large scale contracting of NTIS operations.

Sincerely,

Shirley Echelman

Shirley Schelman
Executive Director

Enclosed: ARL Comments on NTIS Proposal, June 10, 1986

cc: Dr. Bruce Merrifield

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THE UNIVERSITY OF ROCHESTER LIBRARY

ROCHESTER, NEW YORK 14627

February 12, 1988

Mr. Doug Walgren, Chairman
Subcommittee on Science,
Research and Technology
Suite 2321 Rayburn House Office Building
Washington, D.C. 20515

Dear Sir:

We have reviewed the information regarding privatization of the National Technical Information Service, FED CO-OP, Employee Stock Ownership Plan, and the RFI distributed by the Department of Commerce.

The judgment of NTIS clients in the research library sector remains as stated to your Committee and the Department of Commerce, i.e., that NTIS privatization is a misapplication of the privatization concept, and a disservice to the NTIS itself, contributing government agencies, foreign government depositors, NTIS employees, and users of NTIS, e.g., scientists, scholars, commercial firms, and libraries. Every NTIS user sector has consistently opposed and continues to oppose privatization of the NTIS. As Chair of the Association of Research Libraries (ARL) Committee on Government Policy, I testified to that effect before your Committee. Still representing ARL as well as my own library, a user of NTIS services and products, I reiterate our opposition to privatization of the NTIS.

While the FED CO-OP and ESOP plan is useful to and protective of NTIS employee rights, and is preferable to a direct sale/giveaway of the NTIS, it does not, in our judgment, redress the major impacts of privatization on NTIS clients. Privatization of the NTIS in whatever form is still a bad idea.

Here are some of the major impacts that we fear:

* A commercial vendor will reduce operational costs, a necessity within privatization rules, by not maintaining access to reports with low sales. This would be a serious blow to many scientists, scholars, and firms at the forefront of developing fields. The RFI states that "Items may be removed from or added to the inventory as may be necessary in the course of normal business." That is an invitation to remove items with no or little profit potential, but perhaps great scientific and scholarly potential.

* Increased cost for documents. Even given pricing approval by the Secretary of Commerce, a commercial vendor has obligations to the ESOP, a commission to the government, outplacing of some employees, taxes, etc. that will make operations more expensive than the NTIS's. Those costs have to be passed on to clients. Indeed, with the ESOP, employees have a stake in higher prices as well.

The problem of foreign ownership/control seems to have been dealt with in the RFI, but will require monitoring. In fact, the entire operation will require an extensive government oversight organization in the Office of the Under Secretary for Economic Affairs (RFI, I.-1, p. 12). This oversight will be an added expense to the government.

The research library community remains opposed to privatization of the NTIS, and urges Congress to legislate against this misconceived action.

Thank you for this opportunity to present to your Committee the thoughts, judgments, and decisions of the research library community.

Sincerely,

James F. Wyatt
Director of Libraries

cc: Ms. Jaia Barrett
Association of Research Libraries

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NATIONAL ACADEMY OF PUBLIC ADMINISTRATION

**An Assessment of
Alternative Organizational Structures for the
National Technical Information Service**

PROBLEM IDENTIFICATION

The panel identified a number of problems which NTIS faces in carrying out its varied responsibilities under laws and regulations designed for traditional government programs.

Funding

Federal funding provisions generally distinguish between programs financed primarily from taxes and those involving market-oriented transaction which are financed primarily by user charges. Trust funds are utilized for the administration of taxes or other receipts earmarked for specified purposes, such as payment of social security benefits, in accordance with the terms of a trust or statute. For revenue producing self-sustaining agencies such as NTIS which conduct a cycle of business operations with the public, the public enterprise revolving fund is now the accepted and preferred method of funding.

Unlike comparable government activities, the NTIS does not have a public enterprise revolving fund. Funding provisions included in NTIS enabling statute (15 USC 1526) are fragmentary and consequently do not adequately define the extent or limits of NTIS' discretion in utilizing its receipts. This has left NTIS vulnerable to questions about the use of its funds. NTIS enabling legislation (15 USC 1526) provides:

> All payments for work or services performed or to be performed under this Act shall be deposited in a separate account which may be used to pay directly the costs of such work or services....Provided, that said receipts may be credited to a working capital fund otherwise established by law, and used under the law governing said funds, if the fund is available for use by the agency of the Department of Commerce which is responsible for performing the work or services for which payment is received.

The Department of Commerce has interpreted this statute to mean that NTIS can use a working capital fund if it chooses, or can use other special accounts to pay for operating expenses. Since 1979, most NTIS operations have been financed through a Treasury-designated trust fund into which NTIS deposits cash receipts including escrow funds advanced by its customers to pay for future purchases. NTIS uses these escrow funds to finance operations.

The General Accounting Office (GAO) and the Office of Management and Budget (OMB) have suggested that such use of escrow funds is improper, that the trust fund has no legal authority to retain earnings to accumulate working capital; and that NTIS does not have explicit authority to use the trust fund for capital expenditures. In order to rectify this situation, NTIS, in 1983, sought legislation to establish a public enterprise revolving fund with authority to receive appropriations of $5 million for initial working capital. Both GAO and OMB supported this legislation, but it was not enacted by the Congress.

Although this legislation would have given NTIS explicit authority to operate the Clearinghouse under a revolving fund, GAO, in its Report to the Chairman, Committee on Energy and Commerce, U.S. House of Representatives, titled "Proposed National Technical Information Service Revolving Fund," arrived that NTIS operations would not be affected significantly because:

- NTIS has consistently used customer advances as working capital.
- NTIS has consistently used the fund to purchase equipment and inventory.
- NTIS had retained earnings in fiscal years 1980 and 1981.

Oversight

Although NTIS is a self-supporting agency, it is subject to the same oversight and management controls as an agency financed by appropriated funds. NTIS provides OMB and the Congress with the same program and financing schedule, object classification and personnel summary as do agencies receiving appropriated funds. The budget shows one activity only, the Information Clearinghouse. The present form of budget presentation does not provide as effective accountability to the Congress as the business type budget required by the Government Corporation Control Act. (See Appendix A.)

Because it is treated as a typical government agency, NTIS is subject to quarterly apportionments of its authority to spend. NTIS is authorized to obligate the lesser of the quarterly apportionment or actual receipts. Unlike typical agencies which can directly control their obligations, NTIS' costs are determined to a large extent by demand for its products and services. Prevalidation of all obligation documents to ensure that the quarterly apportionment is not exceeded causes additional recordkeeping for NTIS. More importantly, the restrictions imposed by the quarterly apportionment do not provide OMB with the control over NTIS obligations as they would with an agency operating with appropriated funds.

NTIS has to maintain two systems of accounts. In compliance with OMB Circular A-34, Budget Execution, NTIS maintains budgetary accounts in its trust fund general ledger in order to report obligations incurred against budget authority. This control, which is required by the Anti-deficiency Act, is designed to set limits on an agency's authority to incur obligations. This accounting method established a cash-based system, but the accounting profession does not consider the cash basis an acceptable accounting practice for business entities such as NTIS. The generally accepted method for such an operation is the accrual-based

system that matches revenues earned against costs incurred during the period. The resulting net profit or loss provides a more accurate measure of financial performance than the information derived from the cash-based system.

In addition to maintaining obligation accounting records required by OMB, NTIS maintains the accrual accounting system needed to monitor its financial condition and establish rates and charges. As part of its planning process, NTIS prepares a business-type budget which balances projected revenues against costs. This budget contains a detailed statement of revenue and expenses. Once approved by the NTIS Director, the budget becomes the financial plan by which program managers monitor their costs. The budget is reviewed monthly to determine if revenues and costs are performing as anticipated, and if adjustments are needed. These monthly budget reports serve as the major indicators of NTIS' financial status.

NTIS also produces internal monthly trial balances and quarterly comparative balance sheets in order to measure the agency's overall performance. These reports show investments in equipment and inventory, receivables, debts, and the overall net worth of the organization. The income statement and the balance sheet are the true measures of NTIS' financial health, as they are for any business-oriented entity. They are the documents which provide the information necessary for effective oversight. The accounts of government corporations are audited by the General Accounting Office or independent accountants in accordance with the principles and procedures applicable to commercial corporate transactions. There is no specific statutory provision for an independent commercial audit of NTIS or requirement for the submission of an audit report to the Congress.

Departmental Administrative Procedures

As an agency of the Department of Commerce, NTIS is subject to the same management controls as all other parts of the Department. As is the case with all such departmental control systems, their purpose is to establish and enforce compliance with a uniform set of operational and policy guidelines applicable to all agencies within the department. But for an organization attempting to deal with and adjust to a continually changing market environment, adherence to such guidelines may result in lower efficiency, higher costs and/or missed opportunities. For this reason, the National Academy of Public Administration, in its 1983 report to Office of Management and Budget on government corporations stated that agencies similar to NTIS "should not automatically be subject to all the administrative rules and regulations of their department or of the Office of Management and Budget, but only to those which are meaningful for a revenue-generating business-type activity."

Position Ceilings

NTIS is subject to the same position (FTE) ceiling controls as are applied to agencies funded by appropriations. The ceiling is based on factors such as prior year usage, anticipated A-76 position savings, across-the-board cuts, or some combination of the above. But none of these factors is related to NTIS' business environment. Should NTIS require additional staff because of increased customer demand, new product opportunities, changed market/product mix, in-house retention of A-76 activities or any other business-related development, it might be unable to do so in a timely manner.

NTIS could obtain some relief from ceiling restrictions by "borrowing" FTE's from the Departmental pool. This solution, however, is temporary at best, and requires elaborate justifications before it can be accomplished.

Investment Opportunities

NTIS maintains, on the average, $9 million in its trust fund. The U.S. Treasury has interest-free use of this money, a benefit equal about $700,000 per year in avoided interest charges. As is the case with comparable trust and revolving funds, surplus in the NTIS fund should be invested in interest-bearing U.S. government obligations. At present NTIS and its users are, in effect, compelled to subsidize the government.

GSA Building Management

NTIS is located in three separate buildings in Springfield, Virginia which are leased by the General Services Administration for the Department of Commerce. In addition to paying GSA for the office space, NTIS also pays a surcharge (SLUC) of $250,000 which is retained by GSA. Since NTIS' rental charges are not subsidized by the taxpayers, but rather paid by users, this additional surcharge puts an extra burden on customers, who wind up paying higher prices to cover NTIS overhead. Some of the facilities are old, poorly maintained and subject to constant heating and air conditioning problems, all of which contribute to employee morale problems and to accelerated deterioration of equipment. For the total amount paid to GSA, NTIS could acquire improved quarters with better employee facilities, and could be located in one building.

PREVIOUS ACTIONS AT NTIS

In view of these problems and the fact that all federal agencies are encountering greater difficulty in obtaining resources, several actions that relate to the issues of funding and organizational design have been taken.

Public Enterprise Revolving Fund

In 1976 and again in 1979, GAO found itself unable to approve NTIS' proposed accounting system because the system provided for an equipment account to record equipment financed from trust fund receipts. GAO felt that this would be an improper use of the trust fund as NTIS lacked the explicit authority to purchase equipment. With OMB support, NTIS, in 1983, sought legislation to establish a public enterprise revolving fund with authority to receive appropriations of up to $5 million for initial working capital. The proposed legislation would permit NTIS to recover all costs (direct and indirect), retain net earnings and purchase equipment and inventory from the fund.

Both the House Committee on Science and Technology and the Senate Committee on Commerce, Science and Transportation reported favorably on the bill and recommended its passage. However, the House Committee on Energy and Commerce failed to act pending a request from Congressman Dingell for a GAO report. From June to August 1983, GAO made an on-site audit at NTIS during which time they gathered information for the report to Congressman Dingell.

GAO cited the following criteria for establishing a public enterprise revolving fund:

(1) the organization should operate under a continuing cycle of operations with most revenue coming from non-Federal sources;

(2) the organization should be substantially self-sustaining over a period of several years; and

(3) the organization should demonstrate a continuing need for financial flexibility to meet unforeseen requirements.

After examining NTIS operations, GAO concluded that the NTIS Clearinghouse met its criteria. However, GAO also concluded that the proposed legislation did not adequately provide for congressional oversight over Clearinghouse operations and recommended that additional controls should be placed on its operations. Theses include:

- periodic reauthorization which would require congressional oversight over Clearinghouse operations;
- annual submission of business-type financial statements and budgets to the Congress, including a statement of present and future financial requirements such as those required by the Government Corporation Control Act;
- limiting activities to those which have been reported to Congress in advance; and
- return of net income to the Treasury after prior-year adjustments, in excess of the amount needed to meet approved activities.

NTIS agreed with GAO's recommendations. Nevertheless, concerns about the adequacy of accountability provided by the bill continued to exist.

Privatization

As part of the Administration's drive to reduce the size and cost of Government, the Office of Management and Budget directed the Department of Commerce to develop a privatization proposal for NTIS to be included in the 1988 budget. In response, the Secretary of Commerce established an intra-Departmental Task Force to study the issue and present its findings and recommendations.

The Task Force employed an open, participative process to secure the views of users of government scientific and technical information, agencies that supply this information to NTIS, information industry firms that currently benefit from remarketing NTIS products, and firms that potentially would benefit from further privatization. A Federal Register notice was published to elicit comments from interested parties, followed by a public meeting to allow the Task Force to get specific information on key issues. In addition, the Department's Decision Analysis Center was used to develop a structured method of evaluating the major options against a common set of criteria.

The Task Force concluded that NTIS, as a self-sustaining Government agency that derives its revenue from user fees, was already a substantially privatized organization. Moreover, the Task Force found that adopting any sweeping privatization alternative would cost the government over $8 million and significantly weaken the Administration's ability to achieve other policy goals.

In order to achieve the goals of privatization, the Task Force recommended that NTIS aggressively pursue opportunities to enter into partnerships and joint ventures with the private sector whereby private sector firms would use NTIS materials to develop products and services that would benefit the user community. Restructuring NTIS as a government corporation would provide the agency with the flexibility to make this recommendation a reality.

Many respondents to the Federal Register notice concerning proposed privatization of NTIS objected to privatization on the grounds that it would limit access to non-classified research. The following excerpts which originated from a request for public comment are representative views of those who advocate that NTIS should remain a public agency:

Implementing the proposed privatization alternatives would require a radical reevaluation of the fundamental role of NTIS. Charles Sawyer presented the issue clearly in a statement of purpose issued in 1950, while he was Secretary of Commerce:

> In view of the increasing importance of technological development as a factor in individual business success and in national industrial supremacy, this bill gives specific content to one phase of this broad objective by providing explicit statutory authority for the creation of a peacetime clearinghouse which will make available to industry, business, and the general public results of technological research and development.

Thirty-six years later our national and international economic future seems less certain. If competitive participation in the world market is to continue, all U.S. business establishments, as well as the general public, must have equal and impartial access to all non-classified government sponsored research. NTIS has fulfilled its obligation to the public by making available to Americans what no private industry can: a national clearinghouse and archive for federally sponsored research. This public function has no place within the competitive private sector.

The arguments proposed in the Federal Register ignore the question of whether privatization is a responsible policy for managing government information. Every alternative presented would unfairly limit equal access to all collected non-classified research. For example, access to these research reports would be limited to those wealthy enough to afford the current "market value" of these reports. And who can guarantee that those reports without immediate value would be made available at any price? In private publishing industry, titles which may have scientific value but which are likely to have a limited readership are frequently dropped in favor of titles with a more popular appeal. So far the information collection and dissemination policies of NTIS have not been influenced by commercial self-interest.

Reasonable prices have been maintained even while allowing for a modest profit. Who can guarantee that this would continue to be the case if the private sector were to acquire any or all of these functions?

Government sponsored research and the reports of this research are two of our few remaining national resources in this "information age." The privatization alternatives proposed for NTIS would benefit one U.S. industry, that represented by the Information Industry Association. The information published by NTIS was paid for by public revenues and should be maintained as a public trust, available to anyone for a reasonable fee. As a frequent user of NTIS products, I cannot accept privatization as beneficial to the general public or the majority of U.S. business. I can not endorse a policy that places the interests of a select group above those of the American public.

ALTERNATIVE APPROACHES

The panel considered three structural variations for NTIS: (1) establishment of a public enterprise fund as previously recommended by NTIS: (2) vesting of corporate powers in the Secretary of Commerce for the administration of the program without creating a corporation (The Aviation Insurance Fund in the Department of Transportation is a model); and (3) a government corporation. The following section of this paper provides an overview of each alternative and presents the costs and benefits resulting from each alternative in non-monetary terms. The panel's primary concern focused on determining the degree to which various structural arrangements would influence the successful performance of NTIS.

(1) **Public Enterprise Revolving Fund**

Advantages

1. It would give NTIS explicit authority to operate a public enterprise revolving fund.

2. It would expressly permit NTIS to accumulate retained earnings, to use customer advances, and to acquire inventory and equipment. Would also allow NTIS to use a portion of the fund as a reserve in the event customer advances must be returned, and a portion as working capital.

3. It meets GAO and OMB criteria for a public enterprise revolving fund:

- The Clearinghouse has a continuing cycle of operations generating receipts primarily from non-Federal sources. Total Clearinghouse receipts generally exceed $20 million, with over 80% coming from sales of products and services to non-Federal sources.
- The Clearinghouse is generally self-sustaining. Although NTIS sustained a modest loss in fiscal years 1982 and 1985, in most years NTIS shows net income.
- NTIS needs the flexibility of a revolving fund to meet changing Clearinghouse expenses which vary according to customer demand.

4. It would have GAO support if the proposed legislation complied with the recommendations in their August, 1983 report, "Proposed National Technical Information Service Revolving Fund."

Disadvantages

1. Although a public enterprise revolving fund would make explicit NTIS' authority to operate the Clearinghouse under a revolving fund, the legislation would have little effect on NTIS operations since NTIS uses the trust fund as a revolving fund.

2. A public enterprise fund would not be subject to those provisions of the Government Corporation Control Act which assure accountability to the President and the Congress.

3. NTIS would continue to be subject to controls and regulations applicable to tax financed activities which hamper its operations without providing effective accountability.

(2) **Vesting Equivalent of Corporate Powers in the Secretary without Creating a Corporation**

Advantages

1. This alternative would vest in the Secretary of Commerce powers comparable to those normally given to a government corporation and would provide the financial flexibility necessary for the effective management of a business type program.

2. In administering the program, the Secretary could sue and be sued and would be subject to the Government Corporation Control Act and other laws specifically applicable to government corporations.

3. It would provide the flexibility to enter into partnerships with the private sector as recommended in the NTIS Privatization Task Force Report.

4. The NTIS would have increased status in the Department as the Secretary's program.

Disadvantages

1. At present, the Department does not interfere in the day-to-day operations of NTIS. Although the Secretary currently has the statutory authority to set rates and to take such steps as he may deem necessary and desirable to make scientific, technical and engineering information available, these functions have traditionally been performed by NTIS without Department involvement. This structure may provide the Secretary or his representative with the stimulus to micromanage NTIS.

2. It would not maintain NTIS as a separate legal entity.

(3) **Government Corporation**

Advantages

1. A Government Corporation would have essential financial flexibility including the use of a public enterprise revolving fund.

2. A corporate charter could provide exemptions from those laws and regulations which now increase costs and hamper operations.

3. NTIS could be given authority comparable to that of many other government corporations to invest funds not required for current operations in interest-bearing U.S. government securities.

4. A government corporation could be authorized to borrow either from the Treasury or the Federal Financing Bank to meet cash flow problems and to finance capital improvements included in its business type budget.

5. More effective oversight by the Congress, OMB, GAO and the Secretary of Commerce would be provided under provisions of the Government Corporation Control Act and its corporate charter.

6. Corporate status would serve to emphasize NTIS's distinctive character and the differences between it and other Department of Commerce programs which are not revenue producing and self-sustaining.

7. It would help to eliminate present misunderstandings within the Department of Commerce about NTIS' unique status. Corporate powers would be vested directly in the corporation administrator, but subject to direction and supervision by the Secretary of Commerce.

Disadvantages

1. While the government corporation is an accepted and legitimate organizational form, it is not well understood either by the Congress or NTIS' clientele. A proposal to create a corporation may be opposed merely because it is "different."

2. A major effort will be required to "educate" the Department of Commerce, OMB and user groups about the potential benefits and limitations of government corporations.

3. While a government corporation would provide the operating and financial flexibility which will make possible the most effective management of NTIS programs, it by itself, cannot guarantee this result. Continuing support and cooperation will be required from the Secretary of Commerce, the White House, OMB, and the Congress.

4. Enactment of legislation to create a government corporation will require the investment of significant time and effort by NTIS and the Department of Commerce.

CONCLUSIONS AND RECOMMENDATIONS

Enabling Legislation

At the time NTIS' enabling legislation was passed in 1950, the United States was just beginning to recognize the urgent problem caused by its inability to access the vast amount of scientific information being published throughout the world. Over the past three decades, the need for access to and availability of Federally-funded scientific and technical information, both for national and economic security, has increased significantly. Although NTIS has initiated many actions to meet this need, its efforts have been hampered by its lack of authority to move aggressively into new areas such as electronic dissemination of government scientific and technical information.

The panel was concerned that NTIS' vaguely drafted legislated mission would not permit the agency to take the lead in stimulating further research, economic development and technical advances through the dissemination of technical and scientific information. Information is a resource of strategic importance. Since science and engineering play major roles in the competitive battle for world markets, the need for legislation that enhances NTIS' role and allows the United States to exploit this potential is especially critical. The panel was unanimous in its recommendation that NTIS should seek legislation that would put it in a stronger position to further the national goal of achieving a competitive edge in international markets.

Corporate Charter

NTIS innovative managers have used many creative ways to deal with the restrictions of operating a self-sustaining business within the framework of regulations designed for agencies financed primarily by appropriated funds.

Nevertheless, the panel unanimously believes that NTIS should be restructured as a government corporation subject to the Government Corporation Control Act. The panel does not recommend special treatment for NTIS. On the contrary, it proposes that NTIS be brought under those established systems of financing, accountability and control which have been designed for comparable business type programs.

The panel found that NTIS fits the criteria for establishing a government corporation articulated by President Truman in 1948, criteria which remain valid today.

1. NTIS is revenue-producing.

Since its inception, NTIS has sold its products and services to the public for a fee. Over the last 5 years, NTIS has earned revenues of $20 to $23 million per year.

2. NTIS is self-supporting.

With the exception of some $500,000 appropriated for its patent licensing program, all NTIS activities are funded through sale of its products and services.

3. NTIS has a large number of business transactions with the public.

Over the past 18 months, NTIS has sold its products to some 40,000 individuals, firms, schools, libraries and governments, both foreign and domestic. Approximately 75 percent of NTIS customers are small businesses. In the past year, NTIS has shipped over 4.5 million documents and microforms, an average of 18,000 each day.

4. NTIS needs flexibility to operate efficiently as a business.

If it is to accomplish its mission and respond most effectively to market demand, NTIS requires the operational flexibility normally accorded corporate agencies. Although NTIS has developed solutions to some of the administrative problems it faces, these solutions sometimes depend on informal understandings with individuals rather than institutional rationale, and are thus extremely vulnerable to changes in personnel. A new Secretary of Commerce, a new departmental administrative officer, a new budget examiner, a new program associate director can disrupt this understanding, causing NTIS to waste time and energy in resolving the problem, resources that should be used to improve service to customers.

The panel believes that NTIS should seek a holistic solution to the myriad of problems it faces, rather than continue to employ the patchwork process it currently uses. By developing and securing the enactment of a corporate charter that places NTIS firmly within the purview of the Government Corporation control Act, NTIS will have the capabilities that go with corporate status, and will be able to operate in a more business-like manner.

The panel recognizes that incorporation would not solve all of NTIS' problems. The government corporation model, even after 35 years, is viewed as non-traditional. Within the departmental framework, adaptation is likely to require time and patience. However, incorporation will give NTIS an institutional character that is consonant with its enterprise-type roles and mission. For this reason its managers will stand on very strong ground in negotiating step transitions from generally applicable controls to the structures of accountability and efficiency envisioned by the Government Corporation Control Act.

ISSUES

Organizational Placement

NTIS carries out a major function of the Department of Commerce, namely, to make research and development results more readily available to industry and business. Because it contributes directly to the mission of the Department, NTIS, as a corporation, should continue to be located in the Department of Commerce. This arrangement also would give NTIS cabinet representation, and would facilitate coordination with related departmental programs.

Furthermore, NTIS should continue to be subject to policy direction and supervision by the Secretary, but its unique legal status should be recognized.

As a corporation, NTIS would have a different institutional character, making it more apparent that is should be freed from normal governmental and Departmental financial and administrative rules, allowing it the flexibility to respond to customer demands while carrying out a public purpose.

Advisory/Governing Board

Although many government corporations are governed by a board of directors to whom the chief executive office reports, this arrangement may not be appropriate for NTIS. If NTIS, as a government corporation were located within the Department of Commerce, reporting to the Secretary of Commerce who provided policy direction, a board of directors would be superfluous and might confuse the normal lines of authority between the Secretary and the Director of NTIS.

Moreover, the NTIS constituency which would normally be represented on the board of directors has diverse interests. This constituency, consisting of Federal agencies that contribute material to the collection, customers (university,

state and local libraries, corporations, small businesses), information industry firms who purchase NTIS materials for re-marketing, and foreign governments, all have sharply differing views as to how NTIS should carry out its mission. The lack of a clear focus from a board might hamper NTIS' ability to accomplish its public purpose. An advisory board would be a more appropriate body to serve the Secretary of Commerce and advise the Corporation. Broad representation on such a board would provide the Secretary with a wide range of opinions to consider in developing information dissemination policy, but would not interfere with NTIS day-to-day operations.

Borrowing Authority

In this era of budgetary restraint, it is unlikely that any legislation passed on NTIS' behalf would provide an appropriation for sufficient working capital. Because NTIS has a continuing need to invest in capital equipment and to meet cash flow problems the ability to borrow from the Treasury or Federal Financing Bank would be especially desirable. NTIS should, of course, repay this money with interest.

Investment Authority

The ability to invest the funds currently maintained in the NTIS trust fund in interest bearing U.S. government securities would yield approximately $700,000 per year. This revenue could be used as working capital. Investment authority combined with borrowing authority would give NTIS more flexibility to respond rapidly to changing market conditions.

Government Corporation Control Act

The Government Corporation Control Act of 1945 was intended to establish consistent treatment and appropriate accountability and control of revenue

producing business enterprises organized as government corporations and to assure that such enterprises could operate with "reasonable autonomy and flexibility" in carrying out authorized programs. The Act provides for an annual "business-type" budget and annual "commercial-type" audit by the Comptroller General, and requires the banking accounts of corporations to be kept with the Treasurer of the United States or with a bank approved by the Secretary of Treasury. The Government Corporation Control Act provides systems of budgeting, accounting and financial control which the Congress has determined to be best suited to enterprises such as NTIS.

Establishment of Rates

NTIS currently uses an iterative process to set rates for its products and services. Each product manager prepares a product plan which projects costs and revenues for the following year. Based on market activity, the product manager determines if a price change is warranted and makes proposals to the NTIS Pricing Committee. The NTIS Pricing Committee, comprised of line managers from each associate directorship, reviews the proposal and accepts, modifies or rejects it.

The NTIS Budget Office aggregates all product plans to make an initial estimation of the NTIS revenue base. The projected revenue is compared to NTIS' cost plan, which contains projected costs from all units. Through an iterative process, costs and revenues are reconciled and prices adjusted.

The Pricing Committee prepares a recommendation and justification for the Director who has final authority to approve prices. Price changes are published in the Federal Register. Users have no opportunity to make formal appeals.

The decision-making process surrounding rates is both intuitive and complex because it deals with demand projections, an inexact science at best. As such, it

does not lend itself to a statutory formula. Guidelines setting limits on return on investment would be a more appropriate control mechanism for NTIS.

At present, the Secretary of Commerce has the statutory authority to approve prices; however, he has delegated this authority to the Director, NTIS, under a Departmental Organizational Order and has not personally exercised this authority. As a government corporation, NTIS pricing policy should be reviewed by an advisory board to ensure proper accountability.

Legal Authority

In keeping with the Administration's goal of using the private sector whenever possible, NTIS has taken steps to seek innovative means of establishing partnerships and joint ventures with information industry firms that would allow these firms to use NTIS materials to develop products and services that will (1) create market opportunities for the industry, and (2) provide more value for both NTIS and industry customers. The government corporation appears to be a good way of providing NTIS with the flexibility to facilitate this arrangement.

As a government corporation, NTIS would have the right to sue and be sued in its own name. This feature would enable a private business to contract with NTIS, secure in the knowledge that if something goes amiss, it can go to court rapidly to settle the matter. Similarly, NTIS, in dealing with private firms, would be empowered to seek direct relief in the courts should the private firm fail to perform, rather than obtain Department of Justice agreement to sue. Since the promise of speedy action is likely to be an attractive inducement for private firms when they consider joint ventures with the government, legal autonomy would be an important corporate feature for NTIS.

Administrative Autonomy

NTIS needs to operate within the framework of administrative regulations and controls designed for public enterprises in order to achieve its goals. Accountability can be provided through such means as an annual report, business-type budget, Congressional oversight, commercial audits and program and performance review by Departmental staff. With these mechanisms firmly in place, NTIS should pursue exemptions in the following areas:

- Personnel ceilings in order to adjust staff upwards or downwards to meet fluctuations in demand.
- Federal procurement regulations in order to purchase goods and equipment rapidly to meet customer requirements.
- GSA building management in order to lease space more suited to NTIS requirements, and at a more reasonable cost.
- Departmental administrative procedures that do not apply to a business-like entity.

A more detailed view might identify other administrative controls which are inappropriate for an operation such as NTIS; exemption from any such controls should also be pursued. Conversely, there are some controls for which an exemption is not warranted. For example, an agency/corporation with 350 employees should not seek wholesale exemption from Office of Personnel Management controls. Some relatively minor exemptions might be appropriate, but establishment of an entirely new personnel system for a staff of only 350 is unnecessary. Exemption from the controls listed above, however, appear to be the minimum required for the NTIS operation.

Implementation

Government organizations are subjected to increased demands and expectations and at the same time reduced financial resources. The need for NTIS

to adapt to a market-oriented environment and meet challenges imposed by the exchange of technological and scientific information requires a change in organizational structure. The importance of matching NTIS' mission and goals to the appropriate organizational structure should be made as clear as possible. That is, it is incumbent upon NTIS managers to recognize the uniqueness of NTIS and its rapidly changing environment and to respond in a manner consistent with those characteristics.

The first step for NTIS is to develop a legislative proposal for discussion with the office of the Secretary of Commerce and the Office of Management and Budget. Before a draft is formally transmitted to the Congress, it should be discussed with appropriate members of the Congress and committee staff, the General Accounting Office and user groups.

WASHINGTON OFFICE

AMERICAN LIBRARY ASSOCIATION

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July 5, 1988

The Honorable James J. Florio
Chairman, Subcommittee on Commerce,
Consumer Protection & Competitiveness
H2-151 Annex 2
U. S. House of Representatives
Washington, D. C. 20515-6121

Dear Mr. Florio:

This letter is submitted on behalf of the American Library Association for the Subcommittee's June 30 hearing record on the provisions of HR 4417 establishing a government corporation to perform the functions of the Department of Commerce's National Technical Information Service. ALA is a nonprofit educational organization of 45,000 librarians, educators, trustees, and other friends of libraries dedicated to the improvement of library and information services for all Americans.

We urge the Subcommittee to report out HR 4417, the National Bureau of Standards Authorization Act for FY 1989, without amendment and to expedite its consideration by the Committee on Energy and Commerce, and by the House. The provisions of Title II of HR 4417 to reenact the National Technical Information Service as a government corporation would continue the current services of NTIS as well as allow for much needed modernization. We are pleased that the bill contains a provision to require the corporation to make its bibliographic information products available through the Government Printing Office's Depository Library Program which makes government information accessible to the public through the nation's almost 1400 depository libraries.

The Association has joined organizations and individuals across many sectors of American society to oppose Administration efforts to pressure the Department of Commerce to "privatize" NTIS. We have supported the congressional anti-privatization language which was included in the trade bill, HR 3, to enact a legal prohibition against large-scale contracting out of NTIS services.

The services provided by NTIS, and the catalogs and indexes they publish, are very important to libraries and to the publics they serve.

EXECUTIVE OFFICES: 50 EAST HURON STREET, CHICAGO, ILLINOIS 60611 (312) 944-6780

NTIS collects a particularly vital body of literature which includes government-sponsored research, development, and technical reports, and other studies and analyses prepared by national, state, and local government agencies, their contractors or grantees, as well as foreign technical reports. In addition, they disseminate federally generated computer software and machine processable data files. Awareness of and access to this information is often crucial to business and industry, students and scholars, independent researchers, government agencies, and public and private sector organizations. NTIS performs a valuable service by collecting this information from diverse sources, providing a consolidated catalog and index, and providing a central sales point.

Because of the importance of access to NTIS materials, the Newark Public Library and the public libraries of Detroit, Boston, and St. Louis are currently participating in a cooperative experimental project, acting as order agents of NTIS. These libraries, as depository, have the basic NTIS catalogs, assist people to identify desired publications, act as local sites to accept and transmit orders, and deliver materials to patrons.

ALA's opposition to the privatization of NTIS, or the possible contracting out of its database and bibliographic products to private-sector vendors, stems from our concern about equal and ready access to unclassified government information in all formats needed by the American public. Currently NTIS is operated as a not-for-profit public service agency. If this operation, or its information dissemination functions, were turned over to the private sector, costs would be higher to accommodate a profit factor; there may be no obligation to make low-profit information available, plus there would be no obligation to provide equal services to all. Higher costs would affect government agencies and research contractors who use NTIS technical reports. It would hamper the acquisition of scientific and technical information by libraries and the general public. The publications could become proprietary products, not necessarily equally available to all depending upon the business interests of the owner.

ALA's Council, its governing body, passed a resolution in January 1987 that expressed its concerns regarding the maintenance of the vital functions currently performed by NTIS which should be continued whatever changes are made to the structure of NTIS:

a) provision of a centralized source and permanent repository for a broad range of federal, international, state, local, and other unclassified scientific and technical reports;

b) provision of bibliographic access to the material through tools such as NTIS' Government Reports Announcements and Index;

c) dissemination of bibliographic information products of such a repository, i.e., catalogs, indexes, abstracts, and newsletters, through the Government Printing Office's Depository Library Program;

d) operation of a timely, "on demand" sales program for this scientific and technical information at prices affordable for not-for-profit libraries, educational institutions, students, small business entrepreneurs, and other similar groups.

That resolution is enclosed. ALA urges the Subcommittee to act expeditiously to report out HR 4417 without amendment, and appreciates the opportunity to provide a statement for the hearing record.

Sincerely,

Eileen D. Cooke
Director
ALA Washington Office

EDC:tj

Enclosure

Resolution Concerning OMB's Proposed Privatization of NTIS

WHEREAS, The Office of Management and Budget (OMB) proposes to contract out or privatize the National Technical Information Service (NTIS); and

WHEREAS, Strong objections have been submitted to NTIS and OMB by the American Library Association, other professional library and information science associations, the academic and research community, individuals, and private sector organizations requiring rapid, economical access to scientific and technical information collected or generated with U. S. tax dollars; and

WHEREAS, ALA has expressed its concerns regarding the maintenance of the vital functions currently performed by NTIS, namely:

a) provision of a centralized source and permanent repository for a broad range of federal, international, state, local, and other unclassified scientific and technical reports;

b) provision of bibliographic access to the material through tools such as NTIS' Government Reports Announcements and Index;

c) dissemination of bibliographic information products of such a repository, i.e., catalogs, indexes, abstracts, and newsletters, through the Government Printing Office's Depository Library Program;

d) operation of a timely, "on demand" sales program for this scientific and technical information at prices affordable for not-for-profit libraries, educational institutions, students, small business entrepreneurs, and other similar groups; and

WHEREAS, Such contracting out or privatization of NTIS would adversely affect equal and ready access to scientific and technical information crucial to the competitive position of the U. S. in the world economy, and to the security of the nation; and

WHEREAS, The Office of Management and Budget has not responded publicly to these concerns; now, therefore, be it

RESOLVED, That the American Library Association calls upon the Congress of the United States to hold hearings on OMB's proposal and, if necessary, draft and pass legislation designed to assure that the interests of the American public and the functions identified above will not be vitiated should OMB proceed with its plan to contract out or privatize NTIS; and, be it further

RESOLVED, That copies of the Resolution be transmitted to the President of the Senate, the Speaker of the House of Representatives, appropriate committees of Congress, the Secretary of Commerce, the Director of the National Technical Information Service, and the Director of the Office of Management and Budget.

Adopted by the Council of the
American Library Association
Chicago, Illinois
January 21, 1987
(Council Document #26.6)